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# FEDERAL REGISTER

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Washington, Wednesday, December 18, 1940

## The President

### EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER NO. 8572 OF OCTOBER 21, 1940, AUTHORIZING THE PRIORITIES BOARD AND THE ADMINISTRATOR OF PRIORITIES TO PERFORM CERTAIN FUNCTIONS UNDER SECTION 2 (A) OF THE ACT OF JUNE 28, 1940

Executive Order No. 8572<sup>1</sup> of October 21, 1940, authorizing the Priorities Board and the Administrator of Priorities to perform certain functions under section 2 (a) of the act of June 28, 1940, is hereby amended to read as follows:

"WHEREAS section 2 (a) of the act of June 28, 1940, Public No. 671, 76th Congress, provides that all naval contracts and orders and all Army contracts and orders shall in the discretion of the President take priority over all deliveries for private account or for export; and

"WHEREAS the public interest requires that provision be made to insure the prompt delivery of materials, articles, equipment, and supplies essential to the national defense; and

"WHEREAS the Council of National Defense has established a Priorities Board composed of the following members of the Advisory Commission to the Council of National Defense: The Advisor on Industrial Production, as Chairman, the Advisor on Industrial Materials, and the Advisor on Price Stabilization; and

"WHEREAS the Priorities Board has designated Mr. Donald M. Nelson as Administrator of Priorities:

"NOW, THEREFORE, by virtue of the authority vested in me by section 2 (a) of the said act of June 28, 1940, and as President of the United States, I hereby approve the establishment of the aforesaid Board and the designation of the said Administrator and authorize the said Board and the said Administrator, acting in the public interest and in the interest of the national defense, under rules and regulations prescribed by the

Board with the approval of the President, to require that deliveries of material under all orders placed pursuant to the authority of the said section 2 (a) and all other naval and Army contracts and orders shall take priority over all deliveries for private account or for export."

FRANKLIN D ROOSEVELT  
THE WHITE HOUSE,  
December 15, 1940.

[No. 8612]

[F. R. Doc. 40-5681; Filed, December 17, 1940;  
9:29 a. m.]

### EXECUTIVE ORDER

EXCUSING FEDERAL EMPLOYEES FROM DUTY  
ON DECEMBER 24, 1940

By virtue of and pursuant to the authority vested in me as President of the United States, it is hereby ordered as follows:

1. The several executive departments, independent establishments, and other governmental agencies in the District of Columbia, including the Government Printing Office and the Navy Yard and Naval Stations, shall be closed all day on Tuesday, December 24, 1940, the day preceding Christmas Day; and all employees in the Federal service in the District of Columbia, and in the field service of the executive departments, independent establishments, and other agencies of the Government, except those who may for special public reasons be excluded from the provisions of this order by the heads of their respective departments, establishments, or agencies, or those whose absence from duty would be inconsistent with the provisions of existing law, shall be excused from duty on that day.

2. This order shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT  
THE WHITE HOUSE,  
December 16, 1940.

[No. 8613]

[F. R. Doc. 40-5680; Filed, December 17, 1940;  
9:29 a. m.]

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<sup>1</sup> 5 F. R. 4199.





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## Rules, Regulations, Orders

## TITLE 14—CIVIL AVIATION

## CHAPTER I—CIVIL AERONAUTICS AUTHORITY

[Amendment 85, Civil Air Regulations]

## PROVIDING FOR THE TYPE CERTIFICATION OF AIRCRAFT RADIO EQUIPMENT

At a session of the Civil Aeronautics Board held at its office in Washington, D. C. on the 13th day of December 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601 (a), 603 (a) and 604 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective February 13, 1941, the Civil Air Regulations are amended as follows:

1. By adding a new Part to read as follows:

PART 16—AIRCRAFT RADIO EQUIPMENT AIRWORTHINESS<sup>1</sup>

## GENERAL

Sec.	
16.10	Scope.
16.11	Deviation.
16.12	Waiver.

## TECHNICAL DATA

16.20	General.
16.21	Drawings.
16.22	Drawing list.
16.23	Parts list.

## CHARACTERISTICS

16.30	Design and tests.
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## INSPECTIONS AND TESTS

16.40	General.
16.41	Facilities.
16.42	Report.

## REGULATIONS

16.50	Identification.
16.51	Modification.
16.52	List changes.

## General

§ 16.10 *Scope.* Aircraft radio equipment required by the Civil Air Regulations to be type certificated and installed in certificated aircraft is eligible for a type certificate upon meeting the requirements hereinafter prescribed.

§ 16.11 *Deviation.* New types, or new types of construction, of aircraft radio equipment which make the tests prescribed by these regulations inapplicable may be subjected to such other tests as the Administrator may deem necessary to insure safe operation.

§ 16.12 *Waiver.* The tests prescribed herein may be waived whenever, in the opinion of the Administrator, a particular part of aircraft radio equipment is so designed or constructed that such tests are not necessary to insure airworthiness.

## Technical Data

§ 16.20 *General.* To be eligible for a type certificate for aircraft radio equipment, an applicant must submit the following technical data:

§ 16.21 *Drawings.* One set of drawings in blue print or equivalent form folded to approximately 9 x 12 inches containing the manufacturer's designation of the aircraft radio equipment and all details of design, construction, assembly, and materials used which are necessary for the reproduction of such aircraft radio equipment: *Provided*, That adequate photographs may be substituted for such drawings if such photographs are suitably marked to indicate the details required herein.

§ 16.22 *Drawing list.* A drawing list setting forth in numerical order or by other suitable classification, the title and

<sup>1</sup> Application for type certification of aircraft radio equipment should be made as prescribed in Part 02. The provisions of §§ 02.2 and 02.3 providing for a production certificate and the rules for the operation under such certificate shall not be applicable to the case of type certification of aircraft radio equipment.



number or date of each drawing submitted under section 16.21.

§ 16.23 *Parts list.* A list specifying each component part of the aircraft radio equipment submitted to the Administrator for certification. The list shall indicate the physical or circuit location of each item and the type or model designation assigned to such item by the manufacturer.

#### Characteristics

§ 16.30 *Design and tests.* To be eligible for type certification, aircraft radio equipment must be so designed and constructed that it will satisfactorily perform the function or functions for which it is intended to be used in aircraft under all flight conditions which may be met in regular service and must:

- (a) Be free from hazard both in itself and in its method of operation;
- (b) Be constructed of suitable and dependable materials;
- (c) Satisfactorily pass a visual inspection of the construction, layout, and electrical arrangement of all components of the particular aircraft radio equipment and such electrical, humidity, temperature, pressure, vibration, drop, and other tests as the Administrator may prescribe.

#### Inspections and Tests

§ 16.40 *General.* The prescribed inspections and tests shall be conducted by the applicant under the supervision of representatives of the Administrator at a designated time and place and in such manner and under such conditions as they may deem necessary.

§ 16.41 *Facilities.* All engineering, technical, and physical facilities which may be necessary for the conduct of all of the prescribed inspections and tests shall be provided by the applicant.

§ 16.42 *Report.* The applicant shall submit in duplicate a written report of the results of the prescribed inspections and tests which shall be in such detail as the Administrator may require.

#### Regulations

§ 16.50 *Identification.* Type certificated aircraft radio equipment shall be plainly and suitably marked with at least the following information:

- (a) Name and address of manufacturer;
- (b) Manufacturer's type or model designation;
- (c) Weight to the nearest pound and fraction thereof;
- (d) Serial number or date of manufacture;
- (e) Type certificate number.

§ 16.51 *Modification.* No change shall be made in the approved specifications under which type certificated aircraft radio equipment is manufactured prior to the approval of such change by the Administrator.

§ 16.52 *List changes.* The holder of a type certificate for aircraft radio equip-

ment shall keep all lists furnished the Administrator current by submitting revised lists containing all changes made subsequent to original certification.

2. By amending § 40.235 to read as follows:

#### PART 40—AIR CARRIER OPERATING CERTIFICATION (INTERSTATE)

§ 40.235 *Radio equipment.* Applicant shall show that each aircraft is equipped with a type certificated two-way radio telephone having sufficient power to permit communication, under normal operating conditions, with at least one ground station used or to be used by the applicant on the regular or alternate route, and capable of communication with other aircraft of the applicant in flight. In addition, each aircraft shall be provided with at least one type certificated radio receiving system capable of receiving radio range signals and weather broadcasts. Such receiving system shall include a type certificated audio filter system with suitable switching arrangements to be used in connection with the reception of simultaneous radio range and voice broadcasts: *Provided*, That such audio filter system will not be required if the airway or route traversed is not equipped with simultaneous type radio range stations.

3. By amending § 40.253 to read as follows:

§ 40.253 *Radio equipment.* Same as in § 40.235 and, in addition, applicant shall show that there is installed in each aircraft to be used in instrument or over-the-top operation (during day or night) over the proposed route, or part thereof, one additional separate type certificated radio receiving system capable of receiving radio range signals and weather broadcasts. Such receiver system shall normally operate from the main source of electrical supply of the aircraft but, in event of failure of the normal power source, shall be capable of being switched to operate from an independent power source. This system shall include an independent power source capable of operating such receiver continuously for a period of at least 4 hours. It is also required that such receiver operate from an independent antenna or from either of two antennas. Two sets of type certificated headphones and two type certificated microphones shall be carried in the aircraft at all times.

4. By striking the words "an approved" in §§ 40.2530 and 40.2531 and inserting in lieu thereof the words "a type certificated".

5. By amending § 40.2532 to read as follows:

§ 40.2532 *Marker beacon receiver.* Applicant shall show that there is installed in each aircraft a type certificated ultra-high frequency receiving system operating on the frequency of 75 megacycles. The system shall provide means for the visual and aural indications of signals

transmitted by ultra-high frequency positive-cone-of-silence and fan type marker stations. The design of the system shall preclude, insofar as possible, erroneous patterns of the transmitted signal caused by the receiving system. Such receiving system will not be required if the airway or route traversed is not equipped with ultra-high frequency positive-cone-of-silence or fan type marker stations.

6. By striking § 04.503.

7. By amending § 04.530 (e) to read as follows:

(e) Type certificated radio equipment as specified in Part 40.

8. By amending § 04.532 (h) as follows:

(h) Type certificated radio equipment as specified in Part 40.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,  
Secretary.

[F. R. Doc. 40-5686; Filed, December 17, 1940;  
10:02 a. m.]

#### [Amendment 83, Civil Air Regulations]

##### PART 20—PILOT RATING

#### DURATION; ENDORSEMENT OF STUDENT PILOT CERTIFICATES

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 13th day of December 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601, and 602 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective December 13, 1940, § 20.33 of the Civil Air Regulations is amended by striking the phrase, "or, in case of a student pilot certificate, a medical examiner" and the phrase "or, in case of a student pilot certificate, an authorized inspector or medical examiner of the Administrator."

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,  
Secretary.

[F. R. Doc. 40-5684; Filed, December 17, 1940;  
10:01 a. m.]

#### [Amendment 84, Civil Air Regulations]

##### PART 52—AIRCRAFT REPAIR STATION RATING

#### REVISING QUALIFICATIONS FOR AND THE RULES GOVERNING REPAIR STATIONS

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 13th day of December 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601 (a) and 607 of said



Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective February 11, 1941, Part 52, as amended, of the Civil Air Regulations is amended as follows:

(1) By amending § 52.1 to read as follows:

§ 52.1 *Repair station ratings.*<sup>1</sup> Repair station ratings are as follows:

- (a) Aircraft of composite construction;
- (b) Aircraft of all metal construction;
- (c) Aircraft engines;
- (d) Aircraft metal propellers and metal propeller hubs;
- (e) Aircraft wood propellers and their metal propeller hubs;
- (f) Aircraft instruments.

(2) By amending § 52.23 to read as follows:

§ 52.23 *Stock.* Applicant shall have a stockroom which provides for the proper storage and segregation of materials.

(3) By amending § 52.25 to read as follows:

§ 52.25 *Other requirements.* Applicant shall have such equipment, facilities and material as are necessary for the competent and efficient performance of the type of work for which a rating is sought.<sup>1</sup>

(4) By the addition of a new section, § 52.43, to read as follows:

§ 52.43 *Reporting defects or unairworthy conditions.* A report of all recurring or serious defects, or other unairworthy conditions of parts of aircraft, aircraft engines, propellers or appliances shall be made upon the applicable forms prescribed and furnished by the Administrator: *Provided*, That if the repair station is operated by a certificated air carrier and maintains repair base records, such records may be supplied in lieu of the reports required by this section.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,  
Secretary.

[F. R. Doc. 40-5685; Filed, December 17, 1940;  
10:02 a. m.]

<sup>1</sup> Manual No. 52, issued by the Administrator of Civil Aeronautics, sets forth in detail various types of work which he has interpreted as within the scope of repair stations rated according to § 52.1. It also carries lists of equipment, facilities and material which the Administrator has approved as adequate under § 52.25 for various types of rated repair stations. This manual may be secured by application to the Correspondence Section, Civil Aeronautics Administration, Washington, D. C.

[Amendment 86, Civil Air Regulations]

PART 60—AIR TRAFFIC RULES

REDESIGNATION OF CERTAIN RADIO FIXES AND AIRWAY TRAFFIC CONTROL AREAS

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 13th day of December 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 601 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective December 13, 1940, Part 60 of the Civil Air Regulations is amended as follows:

1. By amending § 60.23226 to read as follows:

§ 60.23226 *Red civil airway No. 27. (Cincinnati, Ohio, to Detroit, Mich.)* Cincinnati, Ohio, radio range station; the intersection of the center lines of the on course signal of the northwest leg of the Cincinnati, Ohio, radio range and the southwest leg of the Dayton, Ohio, radio range; Dayton, Ohio, radio range station; Toledo, Ohio, radio range station; the intersection of the center lines of the on course signals of the north leg of the Toledo, Ohio, radio range and the south leg of the Detroit, Mich. (Wayne County Airport), radio range; Detroit, Mich. (Wayne County Airport), radio range station.

2. By amending § 60.24226 to read as follows:

§ 60.24226 *Red civil airway No. 27 airway traffic control areas (Cincinnati, Ohio, to Detroit, Mich.).* All of red civil airway No. 27.

By the Civil Aeronautics Board:

[SEAL] THOMAS G. EARLY,  
Secretary.

[F. R. Doc. 40-5687; Filed, December 17, 1940;  
10:03 a. m.]

TITLE 29—LABOR

CHAPTER IV—CHILDREN'S BUREAU

[Regulation No. 1-I]

PART 401—CERTIFICATES OF AGE

EXTENSION OF TEMPORARY CERTIFICATES

Authority for Regulation

By virtue of and pursuant to the authority conferred by section 3 (l) and section 11 (b) of the Fair Labor Standards Act of 1938<sup>1</sup> the following regulation is hereby issued for the purpose of ex-

<sup>1</sup> Act of June 25, 1938, c. 676, 52 Stat. 1060, U.S.C., tit. 29, sec. 201.

tending the effective period of Child Labor Regulation No. 1-A, entitled "Temporary Certificates of Age," as amended by Child Labor Regulations Nos. 1-B, 1-C, 1-D, 1-E, 1-F, 1-G, and 1-H.

Regulation

Child Labor Regulation No. 1-A, entitled "Temporary Certificates of Age," issued October 14, 1938,<sup>2</sup> as amended by Child Labor Regulations Nos. 1-B, 1-C, 1-D, 1-E, 1-F, 1-G, and 1-H,<sup>3</sup> is hereby amended by extending the effective period for the acceptance of temporary certificates of age, as provided in Child Labor Regulation No. 1-A, for an additional period from January 1, 1941, to June 30, 1941, inclusive.

KATHARINE F. LENROOT,  
Chief of the Children's Bureau.

[F. R. Doc. 40-5696; Filed, December 17, 1940;  
11:28 a. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

[Docket Nos. A-82, A-83, A-91]

PART 330—MINIMUM PRICE SCHEDULE, DISTRICT No. 10

ORDER OF THE DIRECTOR GRANTING FINAL RELIEF IN THE MATTER OF THE PETITION OF THE SAHARA COAL COMPANY FOR AUTHORIZATION TO SELL ITS COALS TO THE NORTHERN STATES POWER COMPANY AT MINIMUM PRICES FOR FREE ALONGSIDE DELIVERY; PETITION OF THE SAHARA COAL COMPANY FOR AUTHORIZATION TO SELL ITS COALS TO THE REGENTS OF THE UNIVERSITY OF MINNESOTA AT MINIMUM PRICES FOR FREE ALONGSIDE DELIVERY; PETITION OF UNITED ELECTRIC COAL COMPANIES FOR AUTHORIZATION TO SELL ITS COALS TO THE MATHIESEN AND HEGELER ZINC COMPANY AT MINIMUM PRICES FOR FREE ALONGSIDE DELIVERY

Original petitions, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with the Bituminous Coal Division on October 5 and 7, 1940, by the Sahara Coal Company and the United Electric Coal Companies, seeking revision of the effective minimum prices for coals sold for ex-river shipment to the Northern States Power Company, the Regents of the University of Minnesota, and the Mathieson and Hegeler Zinc Company; and

Hearings having been held before an Examiner of the Bituminous Coal Division at a hearing room of the Division, 734 Fifteenth Street NW., Washington, D. C., on November 19 and 20, 1940; and

<sup>2</sup> Published in 3 F.R. 2531, October 22, 1938.  
<sup>3</sup> Published in 4 F.R. 402, January 24, 1939; 4 F.R. 1620, April 15, 1939; 4 F.R. 3328, July 18, 1939; 4 F.R. 4262, October 17, 1939; 5 F.R. 159, January 11, 1940; 5 F.R. 1365, April 9, 1940, and 5 F.R. 2597, July 18, 1940.



The parties to this proceeding having waived the preparation and filing of a report by the Examiner, and the matter thereupon having been submitted to the Director; and

The Director having made Findings of Fact and Conclusions of Law in this matter, dated December 13, 1940, which are filed herewith:

*It is ordered*, That the prayers for relief in said original petitions of the Sahara Coal Company and the United Electric Coal Companies are hereby granted as follows:

This section (the Schedule of Effective Minimum Prices for District No. 10, For All Shipments Except Truck, § 330.10 *Special Prices*<sup>1</sup> (b) (1) (iii) (b)) be and the same hereby is amended by adding the following:

The Regents of the University of Minnesota (for consumption at its Main Campus plant and its University Farm School plant).

The Northern States Power Company (for consumption at its Riverside Station plant in Minneapolis, Minnesota, and its High Bridge Station plant in St. Paul, Minnesota).

The Matthiesen and Hegeler Zinc Company of La Salle, Illinois.

Dated: December 13, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5670; Filed, December 16, 1940;  
2:14 p. m.]

## TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

### CHAPTER I—VETERANS' ADMINISTRATION

#### PART 4—ADJUDICATION: VETERANS' CLAIMS, CENTRAL OFFICE SECTION

##### AMENDED AWARDS

§ 4.2135 *Section 30, Public No. 141, 73d Congress; Public No. 269, 74th Congress; Indian Wars; Civil War; and peace time prior to April 21, 1898.*

(c) Notice of reduction, suspension or termination will be given the pensioner by registered letter containing a full and true statement of the reasons, necessitating such action. It will be stated in the letter that the pensioner will be given a period of thirty days (sixty days to pensioners in foreign countries) from the date of receipt of the letter by him within which to show cause why the action contemplated should not be taken. The pensioner will be informed that any evidence submitted must be duly sworn to before some officer authorized to administer oaths for general purposes. (See also § 2.1032.) If reply is not received within the period designated in the notice, as shown by the date appearing on

the returned registered receipt, the pension will be reduced, suspended or terminated as the case may be, effective on the last day of the month in which the reduction, suspension or termination is approved. If reply is received within the designated period, it will be carefully considered to determine whether cause has been shown for receding from the contemplated action. If the contemplated action is not receded from, the pension will be reduced, suspended or terminated as in cases where no reply is received. *Provided*, That no reduction, suspension or termination will be effective prior to the last day of the month in which the designated period expires. In any event the pensioner will be informed of the action taken. (December 19, 1940) [46 Stat. 1016; 38 U.S.C. 111]

FRANK T. HINES,

Administrator of Veterans Affairs.

[F. R. Doc. 40-5694; Filed, December 17, 1940;  
11:23 a. m.]

#### PART 5—ADJUDICATION: DEPENDENTS' CLAIMS

##### BURIAL AND FUNERAL EXPENSES AND TRANSPORTATION OF BODIES OF VETERANS

§ 5.2692 *Payment of burial expenses of deceased war veterans and veterans of the regular establishment.*

(b) *Death on or after March 20, 1933.* (1) When a veteran of any war as defined in § 5.2694 dies on or after March 20, 1933; or when a veteran discharged from the Army, Navy, Marine Corps, or Coast Guard for disability incurred in line of duty; or a veteran of the Army, Navy, Marine Corps, or Coast Guard in receipt of pension for service-connected disability dies after discharge and on or subsequent to October 5, 1940 (Public, No. 796, 76th Congress), a sum not exceeding \$100 may be allowed for burial and funeral expenses and transportation of the body to the place of burial.

(2) All claims for reimbursement of direct payment of burial and funeral expenses and transportation of the body must be filed within two years from the date of permanent burial or cremation of the veteran. In the event the claimant's application is not complete at the time of original submission, the claimant and the person acting for him, if any, will be notified of the evidence necessary to complete the application and if such evidence is not received within one year from the date of the request therefor no allowance may be paid: *Provided*, That, if within the two year period from date of permanent burial or cremation, the claim is disallowed because the evidence to complete it was not received within one year from request therefor, and a new claim is filed within such two year period, the claimant will again be notified of the evidence necessary to complete the claim and if such evidence is received within one year from the date

of request therefor the allowance may be paid if the claimant is otherwise entitled.

(3) Where the death of a veteran occurred on or after March 20, 1933, and claim for burial allowance was not filed; or was filed more than one year subsequent to the burial of the veteran; or was filed within such one year period and disallowed, a claim filed within two years after October 17, 1940, shall be adjudicated under the provisions of §§ 5.2692 to 5.2706 inclusive: *Provided*, That any claim based on the death of a veteran on or after March 20, 1933, which has been disallowed prior to October 17, 1940, may upon written notice from the claimant or a representative of the claimant received in the Veterans' Administration prior to October 18, 1942, be revived and adjudicated under §§ 5.2692 to 5.2706 inclusive: *Provided further*, That any claim pending on October 17, 1940, shall be adjudicated without the written notice required herein. (Public No. 866, 76th Congress, Act of October 17, 1940)

(4) The term "disallowed" as used in § 5.2692 shall not include a case wherein any payment of burial, funeral or transportation expense was made prior to October 17, 1940 (December 16, 1940). [Pub. No. 866, 76th Congress]

§ 5.2696 *Death occurring while traveling under prior authorization or in a Veterans' Administration facility.*

(b) When death occurs in a Veterans' Administration facility within the continental limits of the United States, on or subsequent to March 20, 1933, there will be paid the actual cost (not to exceed \$100) of burial and funeral and the body will be transported to the place of burial within the continental limits of the United States or to the place of burial in Alaska if the veteran was a resident of Alaska and had been brought to the United States as a beneficiary of the Veterans' Administration for hospital or domiciliary care. Where death occurs while hospitalized under authority of the Veterans' Administration in a territory or possession of the United States, there will be paid (not to exceed \$100) the actual cost of burial and funeral and the body will be transported to the place of burial within such territory or possession (December 16, 1940.) [Public No. 866, 76th Congress]

Section 5.2699 canceled December 16, 1940.

§ 5.2702 *Allowable expenses of burial, funeral and transportation.* (a) (1) For the purpose of regulations governing the payment of burial, funeral and transportation expenses, the following items and articles will be considered as allowable:

Blanket.

Box, if box is used as a shipping case an allowance not exceeding \$25 may be applied thereon as a part of transportation expenses in those cases where transportation charges are payable, ex-

<sup>1</sup> 5 F.R. 3229.



clusive of the \$100 burial allowance as provided in § 5.2696, and any balance on such box or container may be included in the burial allowance of \$100.

Vault: Vault, steel or concrete (if vault is used as a shipping case and also for burial, an allowance not exceeding \$25 may be applied thereon as a part of transportation expenses in those cases where transportation charges are payable, exclusive of the \$100 burial allowance as provided in § 5.2696, and any balance on such vault may be included in the burial allowance of \$100).

Watchers, necessary fee for watchers not to exceed \$10 for each or a total of \$20 and such other necessary burial and funeral expenses as are reasonable, not to exceed \$100. The cost of flowers (other than door badge), flower car, obituary notices and state tax will not be allowed.

(b) *Original pick-up.* There shall be allowed a reasonable charge for the original pick-up of the remains in addition to the statutory allowance of \$100 in every instance, where death occurs in a Veterans' Administration facility or while traveling under prior authorization (§ 5.2696 (a)). The reasonableness of transportation charges against the Veterans' Administration accomplished by means other than by common carrier will be determined by employees authorized to make findings of fact and law in burial claims, but the amount to be allowed shall not exceed the charge made the general public for the same service.

(d) *Items allowable as part of transportation where remains are transported overland by hearse.* In adjudicating claims where death of a person occurs in a Veterans Administration facility or while traveling under prior authorization of the Veterans Administration, either to or from a Veterans Administration facility or regional office, and the remains are transported overland by hearse, the following items will be considered as a part of transportation expense, the cost of which will be allowed in addition to the statutory allowance of \$100:

(1) (a) Original pick-up of remains from the facility or place where death occurred while traveling under prior authorization, (§ 5.2696 (a)) prior to transfer to place of burial and

(b) Reasonable cost of subsequent removal from the place to which transported on original pick-up under (a) above direct to place of burial or where the above services are not performed.

(2) Reasonable cost of removal direct from the facility or place where death occurred while traveling under prior authorization (§ 5.2696 (a)) to place of burial. The amount to be allowed shall not exceed the charge made the general public for the same service.

(e) *Payments on burial by State, county or political subdivision, Federal*

*agency or burial association.* Nothing in §§ 5.2692 to 5.2706, inclusive, shall be construed to cause the disallowance of a claim by the Veterans Administration because of any payment made on burial and funeral (including transportation) by a State, county, or other political subdivision, workmen's compensation commission, state industrial accident board, employer, burial association or Federal agency, unless the amount of expenses incurred is absorbed by the amount actually paid for burial and funeral (including transportation) purposes by such agencies: *Provided*, That no claim shall be allowed for more than the difference between the entire amount of expenses incurred, and the amount paid by any or all of the foregoing agencies: *Provided further*, That in no instance shall the amount allowed exceed \$100. Nothing herein shall be construed to cause the denial of or a reduction in the amount of burial allowance otherwise payable because of a cash contribution made by a burial association to any person other than the person rendering burial and funeral services: *Provided further*, That in no event shall the burial allowance be paid when the veteran died while in the active service of the Army, Marine Corps or Coast Guard; or while on active duty with the National Guard as authorized by section 38, National Defense Act, or while a member of the National Guard when en route to or from or during attendance at encampment, maneuvers, or other exercises or at service schools authorized by sections 94, 97 and 99 of the National Defense Act or while on active duty with the Organized Reserves, Reserve Officers Training Camp, Citizens Military Training Camp or similar organizations, or while enrolled in the Civilian Conservation Corps, or while in employment covered by the United States Employees' Compensation Act, or by the Longshoreman's Act, or other similar laws. Claims for the statutory burial allowance shall not be denied solely because of a provision in any Federal law or regulation permitting the application of funds due or accrued to the credit of the deceased toward the expenses of burial as distinguished from a provision specifically prescribing a definite allowance for such purpose (December 16, 1940.) [Pub. No. 866, 76th Cong.]

(h) *Forfeiture.* Forfeiture of benefits by a veteran under the provisions of section 504, World War Veterans Act, as amended, or section 15 of Public No. 2, 73d Congress, shall not preclude payment of the statutory burial allowance where the death of the veteran occurred on or subsequent to October 17, 1940 (December 16, 1940.) [Sec. 9, Pub. No. 866, 76th Congress]

FRANK T. HINES,  
Administrator of Veterans Affairs.

[F. R. Doc. 40-5695; Filed, December 17, 1940; 11:22 a. m.]

## TITLE 49—TRANSPORTATION AND RAILROADS

### CHAPTER I—INTERSTATE COMMERCE COMMISSION

#### ORDER IN THE MATTER OF A UNIFORM SYSTEM OF ACCOUNTS TO BE KEPT BY ELECTRIC RAILWAYS

At a Session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 10th day of December, A. D. 1940.

In the matter of the order of July 13, 1937, effective July 1, 1937, prescribing operating-revenue account 108½, "Protective service revenue—Perishable freight", for electric railways; the order of July 31, 1937 changing the effective date to January 1, 1938; the order of December 18, 1937 changing the effective date to January 1, 1939; the order of November 28, 1938 changing the effective date to January 1, 1940; and the order of November 6, 1939, changing the effective date to January 1, 1941.

It is ordered, That the effective date be changed to January 1, 1942.

By the Commission, division 1.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 40-5701; Filed, December 17, 1940; 11:55 a. m.]

## Notices

### WAR DEPARTMENT.

[Contract No. W669 qm-8741 (O. I. No. 1199)]

#### SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: J. P. STEVENS & COMPANY, INCORPORATED

Contract for: Cloth, Cotton, Khaki, 8.2 oz. 36".

Amount: \$1,175,700.00.

Place: Philadelphia Quartermaster Depot, Philadelphia, Pa.

This contract, entered into this ninth day of September 1940.

*Scope of this contract.* The contractor shall furnish and deliver \* \* \* linear yards of cloth, cotton, Khaki, 8.2 for the consideration stated totaling One million, one hundred seventy-five thousand, seven hundred dollars (\$1,175,700.00) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

*Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, pay-

\* 4 F. R. 4559.



ments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

**Delays—Liquidated damages.** If the contractor refuses or fails to make delivery of the materials or supplies within the time specified in Article 1, or any extension thereof, the actual damage to the Government for the delay will be impossible to determine, and in lieu thereof the contractor shall pay to the Government, as fixed, agreed, and liquidated damages for each calendar day of delay in making delivery, the amount as set forth in the specifications or accompanying papers, and the contractor and his sureties shall be liable for the amount thereof:

**Liquidated damages.** Under the terms and conditions stipulated in Article 17 of this contract, the contractor shall pay to the Government, as liquidated damages, for each unit undelivered, a sum equal to \* \* \* percentum of the price of each unit for each day's delay after the date or dates specified.

Bond furnished; amount, \$235,140.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to procurement authority QM 350 P2-0240 A 0515-01 the available balance of which is sufficient to cover cost of same.

This contract authorized under Procurement Directive, No. P-C-33.

NEAL H. MCKAY,  
Major, Quartermaster Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 40-5691; Filed, December 17, 1940;  
10:05 a. m.]

[Serial No. 3389 Date 9/25/40; Change No. 1 to  
Contract No. W 535 ac-15707; Dated Sep-  
tember 9, 1940]

AIR CORPS MATERIEL DIVISION, WRIGHT  
FIELD, DAYTON, OHIO

CURTIS-WRIGHT CORPORATION, ST. LOUIS  
AIRPLANE DIVISION, ROBERTSON, MIS-  
SOURI

#### Change Order

Subject: Change in Method of Pay-  
ment.

Affecting Contract W 535 ac-15707 and  
Serial No. 3389.

In accordance with the provisions of  
Article 40 of Contract W 535 ac-15707, a  
mutual agreement has been entered into  
by and between the parties hereto, for  
the fixing of a definite price to be paid  
by the Government to the Contractor per  
unit of articles called for under the terms  
of said contract in lieu of paying the  
Contractor the cost of performing such  
contract plus the fixed fee therein pro-  
vided for.

In view of the foregoing, so much of  
Contract W 535 ac-15707 as provides for  
the payment of cost plus a fixed fee shall

have no further force and effect, and it  
is mutually understood that upon the  
execution and approval of this Change  
Order, no sums of money shall be consid-  
ered to have accrued to the Contractor  
under the terms of Contract W 535 ac-  
15707, or to be due and owing from the  
Government to the Contractor except as  
hereinafter provided.

The \* \* \* Advanced Trainer Type  
Airplanes called for under the terms of  
Item 1 of Article 1 of Contract W 535  
ac-15707, shall be furnished and delivered  
to the Government at a total cost of  
\$4,272,150.

The spare parts for the Model \* \* \*  
Airplanes, called for under the terms of  
Item 2 of Article 1 of Contract W 535  
ac-15707, as amended hereby, shall be  
furnished in a quantity not exceeding a  
cost of \$427,215.

The \* \* \* Airplane called for  
under the terms of Item 3 of Article 1 of  
Contract W 535 ac-15707 shall be furn-  
ished to the Government at a cost of  
\$21,913.60.

The \* \* \* direct reading dark  
brown negatives called for under the  
terms of Item 4 of Article 1 of Contract  
W 535 ac-15707 shall be furnished to the  
Government at a cost of \$2,782.

The \* \* \* Handbook of Instruc-  
tions called for under the terms of Item  
5 of Article 1 of Contract W 535 ac-15707  
shall be furnished at a cost of \$3,745.

The \* \* \* Bill of material cover-  
ing the airplanes called for under the  
terms of Item 6 of Article 1 of Contract  
W 535 ac-15707 shall be furnished at a  
cost of \$963.

The \* \* \* Stress analysis and  
weight data called for under the terms  
of Item 7 of Article 1 of Contract W 535  
ac-15707 shall be furnished at a cost of  
\$7,490.

The \* \* \* Photographic negatives  
and proof prints called for under the  
terms of Item 8 of Article 1 of Contract  
W 535 ac-15707, shall be furnished at a  
cost of \$38.52.

**Advance payments.** Advance pay-  
ments may be made from time to time  
for the supplies called for, when the  
Secretary of War deems such action nec-  
essary in the interest of the National  
Defense.

**Partial payments.** Partial payments  
will be made as the work progresses at  
the end of each calendar month or as  
soon thereafter as practicable on authen-  
ticated statements of expenditures of the  
Contractor approved by the Contracting  
Officer.

**Plant facilities contingency.** It is un-  
derstood and agreed that certain plant  
facilities in addition to those now avail-  
able to the Contractor will be required  
by the Contractor to enable him to com-  
ply with the delivery schedules contained  
in this Change Order. If an agreement  
satisfactory to the Contractor, providing  
for the construction or acquisition of  
such facilities, is not entered into and,  
if required, approved on or before  
\* \* \* then and in such event nego-

tiations shall, at the written request of  
the Contractor, delivered to the Con-  
tracting Officer, be entered into, for the  
amendment of such delivery schedules.  
If no agreement on such amendment be  
reached within \* \* \* days from the  
date of delivery of such request, then the  
Contractor shall have the right, at any  
time thereafter and prior to the execu-  
tion and approval, if required, of an  
agreement providing for the facilities  
required as hereinbefore stated, to de-  
mand in writing of the Contracting Offi-  
cer that the Government terminate this  
contract upon the terms and conditions  
hereinafter stated in the clause permit-  
ting termination when the Contractor is  
not in default, and the Government  
agrees in such event to so terminate.

**Price adjustment.** The contract prices  
stated in this Change Order for airplanes  
and spare parts are subject to adjust-  
ments for changes in labor and material  
costs.

It is expressly agreed that quotas for  
labor will not be altered on account of  
delays in the completion of airplanes and  
spare parts.

**Termination when contractor not in  
default.** If, in the opinion of the Con-  
tracting Officer upon the approval of The  
Secretary of War, the best interests of  
the Government so require, this contract  
may be terminated by the Government,  
even though the contractor be not in de-  
fault, by a notice in writing relative  
thereto from the Contracting Officer to  
the contractor.

The supplies and services to be obtained  
by this instrument are authorized by,  
are for the purpose set forth in and are  
chargeable to Procurement Authorities:  
AC 34 P-12-3037 A 0705-01, \$4,309,082.12;  
AC 28 P-82-3037 A 0705-01, \$427,215.00;  
the available balance of which is suf-  
ficient to cover cost of same.

This contract authorized under the  
provisions of section 1 (a), Act of July 2,  
1940, and under the authority contained  
in Article 40 of Contract No. W 535 ac-  
15707.

NEAL H. MCKAY,  
Major, Quartermaster Corps  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 40-5698; Filed, December 17, 1940;  
10:03 a. m.]

[Contract No. W 535 ac-16137 (3837)]

#### SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: THE GLENN L. MARTIN  
COMPANY

Contract for: \* \* \* Airplanes, Spare  
Parts and Data.

Amount: \$99,641,880.83.

Place: Materiel Division, Air Corps,  
U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be ob-  
tained by this instrument are authorized  
by, are for the purpose set forth in, and  
are chargeable to the following Procure-  
ment Authorities, the available balances



of which are sufficient to cover costs of same:

AC 34 P 12-3037 A 0705-01... \$94,897,029.36  
AC 28 P 82-3037 A 0705-01... 4,744,851.47

This contract, entered into this 26th day of September 1940.

**ARTICLE 1. Scope of this contract.** The contractor shall furnish and deliver to the Government all of the airplanes, spare parts and data as set forth more particularly in Article 16 hereof, for the consideration stated Ninety Nine Million Six Hundred Forty One Thousand Eight Hundred Eighty Dollars and Eighty-three Cents (\$99,641,880.83).

**ART. 2. Changes.** Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

**ART. 5. Delays—damages.** If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

**ART. 8. Payments.** The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

**ART. 16. Articles and supplies called for and payment therefor.** The Contractor shall furnish and deliver to the Government all of the following airplanes, spare parts and data at the prices hereinbelow indicated:

**Item 1. \* \* \* Airplanes.** Such airplanes shall be furnished at a cost of \$94,897,029.36.

It is understood and agreed that in order to produce and deliver said airplanes in accordance with the terms of this contract, the Contractor will require additional plant facilities which the Contractor expects to be financed by a bank or other loans in connection with a proposed Emergency Plant Facilities Contract between the Government and the Contractor. It is further agreed that the Government shall pay to the Con-

tractor, as further consideration for the \* \* \* airplanes called for in this Item 1 of Article 16, an amount, not exceeding \$426,625.00, equivalent to \* \* \* of the amount of the interest to be paid by the Contractor to the end of the period of this contract as stated herein, \* \* \* on the proposed bank or other loans to be made for the purpose above stated, the amount so computed to exclude any and all interest recoverable by the Contractor under the terms of such Emergency Plant Facilities Contract; and a Change Order giving effect to this agreement shall be executed as soon as practicable after the amount and interest rate of the bank or other loans required for the purpose above stated shall have been determined.

**Item 2.** Certain spare parts for all of the airplanes at a total price not exceeding \$4,744,851.47.

**Item 3. \* \* \*** Direct reading dark brown negative.

Partial payments will be made as the work progresses at the end of each calendar month or as soon thereafter as practicable on authenticated statements of expenditures of the Contractor approved by the Contracting Officer.

The Government shall furnish to the Contractor for installation in the airplanes called for under the terms of this contract all materials, equipment and supplies listed in Contractor's Model Specification hereinbefore referred to, and elsewhere listed in this contract as being furnished by the Government.

**ART. 23. Advance payments.** Advance payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the National Defense.

**ART. 25. Plant facilities contingency.** It is understood and agreed that certain plant facilities in addition to those now available to the Contractor will be required by the Contractor to enable him to comply with the delivery schedules contained in this contract. If an agreement satisfactory to the Contractor, providing for the construction or acquisition of such facilities, is not entered into and approved on or before \* \* \* then and in such event negotiations shall, at the written request of the Contractor delivered to the Contracting Officer, be entered into by and between the Contractor and the Contracting Officer for the amendment of such delivery schedules. If no agreement on such amendment be reached within \* \* \* days from the date of delivery of such request, then the Contractor shall have the right, at any time thereafter and prior to the execution and approval of an agreement providing for the facilities required as hereinbefore stated, to demand in writing of the Contracting Officer that the Government terminate this contract upon the terms and conditions stated in

Article 27 of said contract and the Government agrees in such event to so terminate.

**ART. 26.** It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 12 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

**ART. 26A. Performance bond.** It being represented by the Contractor and understood by the Government in entering into this contract that the contract price herein specified is based upon the requirement of a performance bond in a percentage not greater than five percent (5%) of the contract prices, it is agreed that the performance bond required of the Contractor shall not exceed five percent (5%) of the total contract price under this contract unless a performance bond of higher percentage shall be required by law or regulation, in which latter event an equitable re-adjustment of the contract price will be negotiated by and between the parties hereto.

**ART. 27. Termination when contractor not in default.** If, in the opinion of the Contracting Officer upon the approval of The Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the Contracting Officer to the contractor.

**ART. 32. Price adjustment.** The contract prices stated in this contract for airplanes and spare parts are subject to adjustments for changes in labor and material costs.

It is expressly agreed that quotas for labor will not be altered on account of delays in the completion of the airplanes and spare parts.

**ART. 37. Title to property where partial payments are made.** The title to all property upon which any partial payment is made prior to the completion of this contract, shall vest in the Government.

**ART. 39. Fire insurance.** The contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments.

This contract authorized under the provisions of section 1 (a), Act of July 2, 1940.

NEAL H. MCKAY,  
Major, Quartermaster Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 40-5689; Filed, December 17, 1940;  
10:04 a. m.]



[Contract No. W 535 ac-15871 (3741)]

## SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: LIGHTS, INCORPORATED, AND  
FRITZ ZIEBARTH (CO-ADVENTURERS)Contract for: \* \* \* Portable Field  
Lighting Sets & Data.

Amount, \$1,291,800.00.

Place: Materiel Division, Air Corps,  
U. S. Army, Wright Field, Dayton, Ohio.This contract, entered into this eighth  
day of October 1940.

ARTICLE 1. *Scope of this contract.* The contractor shall furnish and deliver to the Government the articles and data as set forth more particularly in Article 16 hereof, for the consideration stated One Million Two Hundred Ninety One Thousand Eight Hundred Dollars (\$1,291,800.00), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

ART. 5. *Delays—Damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

ART. 8. *Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

ART. 16. *Articles and supplies called for.* The Contractor shall furnish and deliver to the Government all of the following articles:

\* \* \* Portable field Lighting.

The Contractor shall likewise furnish and deliver to the Government, but without additional cost therefor, the following engineering data covering the articles called for above:

\* \* \* Vandykes of bill of material.  
\* \* \* Vandykes of Class A drawings and parts lists covering said articles.  
\* \* \* Handbook of Instructions and Parts Catalog covering said articles.

No. 245—2

The Government shall furnish to the Contractor, without cost therefor, the following equipment for installation by the Contractor in the articles called for under paragraph (1) of this Article:

\* \* \* Lamps for each Portable  
Lighting Set called for.\* \* \* Lamps for each Portable  
Lighting Set called for.

ART. 20. *Option.* The Government is granted the right and option at any time during the life of this contract to increase the quantity of the supplies called for hereunder at not more than the unit price stated.

ART. 22. *Termination when contractor not in default.* If, in the opinion of the Contracting Officer upon the approval of The Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the Contracting Officer to the contractor.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority Ac 30 P 85-3059 A 0705-01, the available balance of which is sufficient to cover cost of same.

NEAL H. MCKAY,  
Major, Quartermaster Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 40-5690; Filed, December 17, 1940;  
10:04 a. m.]

[Contract No. W 535 ac-16288 (3897)]

SUMMARY OF COST-PLUS-A-FIXED-FEE  
SUPPLY CONTRACTCONTRACTOR: WRIGHT AERONAUTICAL COR-  
PORATION

Contract for: \* \* \* Series Aero-  
nautical Engines, Spare Parts and Data  
(For the U. S. Army Air Corps and the  
U. S. Navy.)

Estimated cost: \$112,135,255.26.

Fixed-fee: \$6,833,560.93 (Aeronautical  
Engines).Approximate fixed-fee: \$902,104.02  
(Spare Parts).

The supplies and services to be obtained by this instrument are authorized by, and for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover the cost of the same:

AC 34 P 12-3037 A 0705-01... \$92,314,408.85  
AC 26 P 81-3037 A 0705-01... 20,682,068.32  
AC 28 P 82-3037 A 0705-01... 6,874,413.04

This contract, entered into this 24th  
day of October 1940.

ARTICLE 1. *Statement of work.* The Contractor shall, within the time specified in Article 4 hereof, manufacture, furnish

and deliver to the Government the following articles:

Item	Quantity	Estimated cost
1.....	* * * Aeronautical engines.	\$30,043,200.52
2.....	* * * Aeronautical engines.	34,309,719.52
3.....	* * * Aeronautical engines.	16,722,807.50
4.....	* * * Aeronautical engines.	4,406,041.60
5.....	* * * Aeronautical engines.	13,576,780.48
6.....	Spare parts for * * * aero- nautical engines.	2,998,353.18
7.....	Spare parts for * * * aero- nautical engines.	8,432,504.32
8.....	Spare parts for * * * aero- nautical engines.	2,675,649.20
9.....	Spare parts for * * * aero- nautical engines.	705,655.10
10.....	Spare parts for * * * aero- nautical engines.	3,263,943.84
11 to 17 inclusive.	Data and breakdowns.....	600.00
Total estimated cost.....		112,135,255.26

ART. 3. *Consideration.* The Government will pay to the Contractor upon satisfactory delivery of all items specified in the contract, subject to partial payments as outlined in Article 6 hereof, the cost plus a fixed fee of Six Million Eight Hundred Thirty Three Thousand Five Hundred Sixty Dollars and Ninety Three Cents (\$6,833,560.93), and the cost plus a fixed fee for spare parts, which fixed fee shall be computed, and shall be approximately Nine Hundred Two Thousand One Hundred Four Dollars and Two Cents (\$902,104.02).

For purposes of determining the amount payable under this contract, allowable items of cost will be determined by the Contracting Officer in accordance with Regulations promulgated by the Treasury Department in T. D. 5000 and approved by the Secretary of War, August 2, 1940.

ART. 5. *Changes.* The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

ART. 6. *Payments—Reimbursement for cost.* The Government will currently reimburse the Contractor for such expenditures made in accordance with Article 3 as may be approved or ratified and upon certification to and verification by the Contracting Officer of the original signed payrolls for labor, the original paid invoices for materials or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

*Payment of the fixed fee.* Ninety per cent (90%) of the fixed fee as set forth in paragraph (a) of Article 3 hereof, shall be paid as it accrues, in monthly installments or in such other periodic installments as may be agreed upon by the parties hereto based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer.



ART. 9. *Termination of contract by Government.* Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government that work be discontinued under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

ART. 22. *Title to property where partial payments are made.* The title to all property upon which any partial payment is made prior to the completion of this contract, shall vest in the Government.

ART. 24. *Fire insurance.* The Contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments.

ART. 39. *Plant facilities contingency.* It is understood and agreed that certain plant facilities in addition to those now available to the Contractor will be required by the Contractor to enable him to comply with the delivery schedules contained in this contract. If an agreement satisfactory to the Contractor, providing for the construction or acquisition of such facilities, is not entered into, and, if required, approved on or before \* \* \*, then and in such event negotiations shall, at the written request of the Contractor, delivered to the Contracting Officer be entered into for the amendment of such delivery schedules. If no agreement on such amendment be reached within \* \* \* days from the date of delivery of such request, then the Contractor shall have the right, at any time thereafter and prior to the execution and approval, if required, of an agreement providing for the facilities required as hereinbefore stated, to demand in writing of the Contracting Officer that the Government terminate this contract upon the terms and conditions herein-after stated in the clause permitting termination when the Contractor is not in default, and the Government agrees in such event to so terminate.

ART. 40. *Special provision.* After the Contractor has manufactured under this contract a total of \* \* \* engines, or at such other date as may be mutually agreed upon by the parties hereto, the Contractor, on the basis of the experience or other bases for negotiation of prices obtained, will endeavor to reach an agreement with the Government upon a definite price to be paid by the Government to it per unit, in lieu of the cost plus fixed fee herein otherwise provided for.

*Price adjustment.* The contract prices stated in this contract for engines and spare parts are subject to adjustments for changes in labor and material costs.

It is expressly agreed that quotas for labor will not be altered on account of delays in the completion of the engines and spare parts.

ART. 41. *Options.* The Government is granted the right and option at any time within \* \* \* days from and after the date of approval of this contract to increase the quantity of \* \* \* aeronautical engines called for under the terms of Item 1 of Article 1 hereof, and to increase the quantity of spare parts called for under the terms of Item 6 of Article 1 hereof.

The Government is granted the further right and option at any time within \* \* \* days from and after the date of approval of this contract to increase the quantity of \* \* \* aeronautical engines called for under the terms of Item 2 of Article 1 hereof, and to increase the quantity of spare parts called for under Item 7 of Article 1 hereof.

This contract is authorized under the provisions of Paragraph 4 g (1), A. R. 5-240.

NEAL H. MCKAY,  
Major, Quartermaster Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 40-5693; Filed, December 17, 1940;  
10:06 a. m.]

[Contract No. W-ORD-485]

SUMMARY OF COST-PLUS-A-FIXED-FEE  
EQUIPPING AND MANUFACTURING CON-  
TRACT AND LEASE OF GOVERNMENT-  
OWNED MANUFACTURING FACILITIES

CONTRACTOR: AMERICAN LOCOMOTIVE COM-  
PANY

Fixed fee: \$1.00 for Equipping under Title I. \$2,363,250.00 for Manufacturing under Title III.

Contract for: The production or purchase and installation of manufacturing facilities in the Contractor's plant at Schenectady, New York, the manufacture of tanks at said plant, and the leasing of said manufacturing facilities to the Contractor.

Place: Schenectady, New York.

Estimated cost of Project: \$1,155,000.00 for Equipping under Title I. \$34,250,000.00 for Manufacturing under Title III.

Rental of manufacturing facilities: \$1.00 under Title II.

The supplies and services to be obtained by this instrument are authorized by, are for the purposes set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover the cost of same:

ORD 7545 P11-3030 A1005-01  
ORD 7545 P11-3030 A(1005) .105-01.

This contract, entered into this 20th day of November 1940.

Title I—Equipping of Plant

ARTICLE I-A. *Statement of work.* The Contractor shall, as an independent Contractor and not as an agent of the Government, in the shortest reasonable time:

(a) Produce or purchase the machinery and the special equipment therefore, set forth in Schedule "A", which is attached hereto and made a part hereof;

(b) Produce or purchase the miscellaneous factory equipment set forth in Schedule "B", which is attached hereto and made a part hereof;

(c) Install or cause to be installed in a location or locations designated by the Contractor in the Contractor's plant at Schenectady, New York, the manufacturing facilities set forth in Schedules A and B to the extent that installation thereof is necessary;

(d) Re-locate or cause to be re-located in the Contractor's plant, in accordance with plans prepared by the Contractor, manufacturing facilities owned by the Contractor and designated by the Contractor for the purpose where such relocation is, in the judgment of the Contractor, desirable for more efficient use in conjunction with the manufacturing facilities listed in Schedules A and B.

(e) To any extent not fully set forth in items (a), (b), (c), and (d) of this Article, furnish the labor, materials, tools, machinery, equipment, facilities, supplies and services, and do all other things necessary to equip the plant for the production of medium tanks, type M3, at the production rate hereinbefore set forth.

ART. I-B. *Estimates.* It is estimated that the total cost of the work covered by this Title I will be approximately One Million, One Hundred Fifty-Five Thousand Dollars (\$1,155,000.00), exclusive of the Contractor's fee.

ART. I-C. *Consideration.* In consideration for its undertaking under this Title I the Contractor shall receive the following:

(a) Reimbursement for expenditures.

(b) A fixed fee in the amount of One Dollar (\$1.00), which shall constitute complete compensation for the Contractor's services under this Title, including profit.

ART. I-D. *Advances.* The intent of this contract is that the Government will finance the Contractor for the work to be done hereunder and that the Contractor is not required to use its own funds or finance elsewhere for the purposes of this contract. To that end, at any time and from time to time after the execution of this contract, the Government, at the request of the Contractor, and subject to a showing by the Contractor of present need therefor to meet commitments, including payrolls, payable within a reasonable time thereafter, and the approval thereof by the Chief of Ordnance, shall advance to the Contractor without payment of the interest therefor, not to exceed a total aggregate sum represent-



ing 30% of the estimated total cost under Title I and Title III.

#### Title II—Lease

The Government hereby leases to the Contractor all of the machinery (including special equipment therefor) and miscellaneous factory equipment (all of which are hereinafter referred to, collectively, as "Manufacturing Facilities"), mentioned in Article I-A of this contract and listed in Schedules "A" and "B".

The Contractor shall not use any of the facilities herein leased for any purpose other than the increase of its production capacity in the manufacture of medium tanks, Type \* \* \*, without the prior approval in writing of the Chief of Ordnance or his duly authorized representative.

Upon the expiration, termination or revocation of this lease, the Contractor shall turn over to the Government, at the Contractor's plant, all of the Manufacturing Facilities herein leased. Said Manufacturing Facilities shall be so turned over in good condition. The Contractor agrees to pay in advance as rental for the term herein created the sum of one dollar (\$1.00).

#### Title III—Manufacture of Tanks

ART. III-A. *Statement of work.* The Contractor shall, as an independent Contractor, and not as an agent of the Government, in the shortest practicable time, furnish the labor, materials and supplies (other than those furnished by the Government), and services, and do all things necessary for the completion of the following work:

(a) Manufacture and assemble \* \* \* Medium Tanks, Type \* \* \*, in accordance with approved detailed plans and specifications to be furnished to the Contractor by the Government.

(b) The Government shall furnish to the Contractor, f. o. b. the Contractor's plant and the Contractor shall install: the engines for said tanks with all necessary accessories.

ART. III-B. *Estimates.* It is estimated that the total cost of the work covered by this Title III will be approximately Thirty-Four Million, Two Hundred Fifty Thousand Dollars (\$34,250,000.00), exclusive of the Contractor's fee and exclusive of the cost of such items as are to be furnished by the Government pursuant to the provisions of Article III-A hereof.

*Consideration.* In consideration for its undertaking under this Title III the Contractor shall receive the following:

(a) Reimbursement for expenditures.

(b) A fixed fee in the amount of Two Million Three Hundred Sixty Three Thousand, Two Hundred Fifty Dollars (\$2,363,250.00), which shall constitute complete compensation for the Contractor's services, under this Title, including profit.

ART. IV-B. *Payments—Reimbursement for costs.* The Government will currently reimburse the Contractor for expenditures made in accordance with Article IV-A upon certification to and verification by the Contracting Officer of the original certified pay rolls for labor, or the original paid invoices or other original papers for any proper expenditures incurred in the prosecution of the work. Generally, reimbursement will be made weekly but may be made at more frequent intervals if requested by the Contractor and if the circumstances warrant.

*Payment of the fixed fee.* The fixed fee prescribed in Title I hereof shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work provided for in Title I as determined from estimates made and furnished by the Contractor and approved by the Contracting Officer.

The fixed fee prescribed in Title III hereof shall be paid in the amount of \* \* \* for each tank completed, inspected and accepted. Such payment shall be made promptly after the close of the calendar month in which the tanks, or any of them, are finally completed, inspected and accepted.

#### Title V—Termination

ARTICLE V-A. *Termination of contract by Government.* Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness or diligence, or fail in the performance of any of the agreements herein contained, and such refusal, neglect, failure or default (except a default in the performance of the stipulation set forth in Article VI-C hereof) continue beyond a reasonable time for the rectification thereof after written notice thereof given by the Government to the Contractor, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

#### Title VI—General Provisions

ART. VI-A. *Changes.* The Contracting Officer, at any time, by a written order and without notice to the sureties, may make changes in drawings, plans and/or specifications except Federal specifications.

ART. VI-B. *Title.* The title to all tanks, parts and materials, completed or in the course of construction or manufacture, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site, title to all materials, tools, machinery, equipment, supplies and facilities, for the cost of which the Contractor shall be entitled to be reimbursed under this contract, shall vest in the Government.

This contract authorized under the provisions of the Act of July 2, 1940 (Public No. 703, 76th Congress).

NEAL H. MCKAY,  
Major, Quartermaster Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 40-5692; Filed, December 17, 1940; 10:05 a. m.]

#### DEPARTMENT OF THE INTERIOR.

##### Bituminous Coal Division.

[Docket No. 1494-FD]

IN THE MATTER OF SHELBY STEAM COAL CO., INC., AND FINNEY RATLIFF, DEFENDANTS

##### NOTICE OF AND ORDER FOR HEARING

A complaint dated November 26, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on November 29, 1940, by Shelby Coal Co., Inc., a code member, District No. 8, complainant, with the Bituminous Coal Division alleging willful violation by the defendants of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 21, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at Room 214, Post Office Building, Ashland, Kentucky.

It is further ordered, That Edward J. Hayes or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendants and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under Section 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous



Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, that answers to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified, that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendants of the Bituminous Coal Code or rules and regulations thereunder as follows: By selling to the Georgia and Florida Railroad, Augusta, Georgia, shipped via C. & O., C. C. & O., P. & N., and G. & F. Railroads to Crafton, South Carolina, November 18 to November 26, 1940, five cars of resultant run of mine coal at \$1.75 per ton f. o. b. the mine, being 20 cents below the effective minimum price for such coal of \$1.95 per ton f. o. b. the mine.

Dated: December 12, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5673; Filed, December 16, 1940;  
2:15 p. m.]

[Docket Nos. A-170, A-240, A-343, A-372,  
A-438]

PETITION OF DISTRICT BOARD 13 FOR REVISION OF EFFECTIVE MINIMUM PRICES ESTABLISHED FOR COALS PRODUCED IN SUB-DISTRICT NO. 2 OF DISTRICT NO. 13 FOR TRUCK SHIPMENTS; PETITION OF DISTRICT BOARD 13 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF CERTAIN MINES IN DISTRICT NO. 13 NOT HERETOFORE CLASSIFIED AND PRICED; PETITION OF DISTRICT BOARD 13 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF CERTAIN MINES IN DISTRICT NO. 13 NOT HERETOFORE CLASSIFIED AND PRICED; PETITION OF CERTAIN CODE MEMBER PRODUCERS IN DISTRICT NO. 13 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF CERTAIN MINES IN

DISTRICT NO. 13 NOT HERETOFORE CLASSIFIED AND PRICED AND FOR REVISION OF EFFECTIVE MINIMUM PRICES ESTABLISHED FOR COALS OF CERTAIN OTHER MINES IN DISTRICT NO. 13; PETITION OF DISTRICT BOARD 13 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF CERTAIN MINES IN DISTRICT NO. 13 NOT HERETOFORE CLASSIFIED AND PRICED

ORDER OF CONSOLIDATION, NOTICE OF AND ORDER FOR HEARING, AND ORDER GRANTING TEMPORARY RELIEF

Original petitions, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by District Board 13 in Dockets Nos. A-170, A-240, A-343, and A-438, and by certain individual Code member producers<sup>1</sup> in District No. 13 in Docket No. A-372; and

It appearing that the above-entitled matters raise analogous issues;

It is ordered, That the above-entitled matters be, and the same hereby are, consolidated.

It is further ordered, That a hearing in the above-entitled matters be held, under the applicable provisions of said Act, and the rules and regulations of the Division, on January 8, 1941, at 10 o'clock a. m. (eastern standard time) in a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

It is further ordered, That D. C. McCurtain or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all

<sup>1</sup> These producers are as follows: Roberson Fork Coal Company; J. W. Thomas; Card Coal Company; Carlisle, Johnson, Millsaps & Ables; J. H. Ledford; Southern Tennessee Coals, Inc.; Sunshine Coal & Coke Company; John Shadwick; Sims Neck Coal Company; Mary Glen Mining Company; C. B. Alexander; Gothard, Elsea & Alexander; Earrin Pressnell; E. L. Goforth; Cain and Houser Coal Company; A. D. Hudson; Jim Turner; Tate & Johnson Coal Company; Will Tate; Edd Levan; O. C. Trussell; James R. Shook; John E. Floyd; C. W. Crabtree; Hassler Bros. Coal Company; Virgil Caldwell; C. K. Hunziker; A. C. Raunsaville; Virgil Thomas; J. H. Goforth; Small and Mansfield; The Tennessee River Coal Company; Market Street Coal Co., Inc. and J. E. Holland.

other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become parties herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 2, 1941.

The matter concerned herewith is in regard to the establishment of price classifications and minimum prices for the coals of certain mines in District No. 13 not heretofore classified and priced and for revision of effective minimum prices established for the coals of certain other mines in District No. 13.

All persons are hereby notified that the hearing in the above-entitled matters and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petitions, petitions of intervenors or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petitions.

It is further ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petitions in the above-entitled matters temporary relief be, and it hereby is, granted as follows: Commencing forthwith, the coals referred to in the schedules marked "Temporary Supplement A-R," "Temporary Supplement A-T," "Temporary Supplement B-R," "Temporary Supplement B-T," "Temporary Supplement C-R," and "Temporary Supplement C-T," annexed hereto<sup>2</sup> and made part hereof, shall be subject to minimum prices as provided in said schedules.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division and proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 13, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5672; Filed, December 16, 1940;  
2:15 p. m.]

<sup>2</sup> Not filed as a part of the original document.



[Docket No. A-206]

PETITION OF DISTRICT BOARD NO. 22 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered*, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 22, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered*, That Charles O. Fowler or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 15, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may

be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to, located in District No. 22, for which coals price classifications and minimum prices have not heretofore been established.

*It is further ordered*, That a reasonable showing of the necessity thereof having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is granted as follows: Commencing forthwith the coals referred to in the schedule hereto annexed,<sup>1</sup> marked "Temporary Supplement" and made part hereof, shall be subject to minimum prices as provided in said Temporary Supplement.

Notice is hereby given that applications to stay, terminate, or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 13, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5676; Filed, December 16, 1940;  
2:16 p. m.]

[Docket No. A-264]

PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 18 FOR MODIFICATION OF THE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS PRODUCED IN DISTRICT NO. 18

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered*, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 9, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered*, That W. A. Shipman, or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence,

<sup>1</sup> Not filed as a part of the original document.

require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to Section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 4, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to modification of the description of Size Group 4 for coals produced in District No. 18 so as to read 8" x 2" in place of 8" x 1½"; the establishment of effective minimum prices for coals produced in Subdistrict 1 of District No. 18 in Size Groups 7, 9 and 13 for shipment to all market areas described on page 5 of Price Schedule No. 1, Subdistrict 1 of District No. 18; and the establishment of effective minimum prices for Subdistrict 2 of District No. 18 in Size Group 15 for shipment to all market areas described on page 5 of Price Schedule No. 1 for Subdistrict 2 of District No. 18 and in Size Group 2 for shipment to Market Areas 227, 228, 229, 232 and 236.

*It is further ordered*, That a reasonable showing of necessity having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be and it hereby is granted, as follows: Commencing forthwith the following temporary changes shall be made in Price Schedule No. 1 for District No. 18 and supplements thereto:

The maximum bottom screen opening for Size Group No. 4 shall be 2" instead of 1½".

The size description for Size Group No. 4 shall read 8" x 2" instead of 8" x 1½".



Insert the following prices for Sub-District No. 1—Gallup for shipment into Market Areas 226-232, 236 and 241:

	7	9	13
Size groups-----	325	240	130

Insert the following prices for Sub-District No. 2—Cerrillos—for Market Areas 226-232, 236 and 241:

Size group-----	15
	325

Insert the following prices for Sub-District No. 2—Cerrillos—for Market Areas 227, 229, 232 and 236:

Size group-----	2
	450

The matters contained in the foregoing temporary changes shall be read in the light of the instructions, exceptions and other provisions contained in Price Schedule No. 1 for District No. 18 and supplements thereto.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 13, 1940.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 40-5675; Filed, December 16, 1940;  
2:16 p. m.]

[Docket No. A-364]

PETITION OF HILLMAN COAL & COKE COMPANY FOR A CHANGE IN MINIMUM PRICE ESTABLISHED FOR COALS OF ITS NAOMI MINE LOCATED IN DISTRICT NO. 2 WHEN SOLD FOR DELIVERY ALL-RIVER IN MARKET AREA NO. 13

#### ORDER GRANTING TEMPORARY RELIEF

The above-named petitioner having filed an original petition requesting a price of \$1.56 per ton for coal from its Naomi Mine, f. a. s. dock of the Ohio Edison Company at Toronto, Ohio; and petitioner having asked for temporary relief and an informal conference having been held, upon notice to interested parties, on November 30, 1940; and

It appearing from the representations of petitioner at the conference that the Ohio Edison Company has refused to take coal from the Naomi Mine since the effective date of minimum prices because coal of comparable quality which had theretofore been purchased at the same price as coal from the Naomi Mine is now available at a lower price, namely, \$1.56 per ton for  $\frac{3}{8}$ " slack, f. a. s. dock at Toronto, Ohio, as compared with a price of \$1.61 per ton for raw  $\frac{3}{8}$ " slack of the Naomi Mine; and

Petitioner not contemplating shipment of other than  $\frac{3}{8}$ " slack to the Ohio Edison Company during the approaching winter months, except for one barge containing a minor percentage of  $1\frac{1}{8}$ " x  $\frac{3}{8}$ " stoker coal now loaded and standing at petitioner's river tipple; and

There being no opposition to the granting of temporary relief other than the request of the representative for District Board No. 3 that it be limited to ten barges of coal:

Now, therefore, it is ordered, That, petitioner having made a reasonable showing of the necessity for temporary relief, pending final disposition of the petition herein, temporary relief be and the same is hereby granted as follows:

The f. o. b. mine price of raw  $\frac{3}{8}$ " slack coal produced at the Naomi Mine for sale to and use by the Ohio Edison Company plant at Toronto, Ohio, is reduced by an amount sufficient to make the price of such coal moving by river for such use \$1.56 per net ton f. a. s. dock, Toronto, Ohio. Petitioner is further authorized to ship the three loaded barges of coal, one containing some  $1\frac{1}{8}$ " x  $\frac{3}{8}$ " stoker coal, and the two barge loads of coal dumped on the ground at Alicia, Pennsylvania, which were on hand November 30, 1940, to the Ohio Edison Company at the foregoing price if such coal is on hand upon the effective date of this Order, no charge to be made in the quantity or size of such coal.

Notice is hereby given that applications to stay, terminate, or modify the preliminary or temporary relief granted in this Order may be filed pursuant to the Rules and Regulations Governing Practice and Procedure under section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 13, 1940.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 40-5674; Filed, December 16, 1940;  
2:15 p. m.]

[Docket Nos. A-377, A-378, A-379, A-380]

PETITION OF THE BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 19 FOR A CHANGE IN THE EFFECTIVE MINIMUM PRICES FOR RAIL SHIPMENTS INTO MARKET AREAS 234, 237-241 AND 247-254 IN SIZE GROUP 16; PETITION OF THE BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 19 FOR MODIFICATION IN THE EFFECTIVE MINIMUM PRICES IN SUBDISTRICT NOS. 1 AND 2 AND THE NUGGET COAL COMPANY IN SUBDISTRICT NO. 3 OF DISTRICT NO. 19 FOR CONSUMPTION AT LYMAN OR GERING, NEBRASKA, OR WHEATLAND, WYOMING; PETITION OF THE BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 19 FOR A CHANGE IN THE EFFECTIVE MINIMUM PRICES FOR RAIL SHIPMENTS INTO MAR-

KET AREAS 217, 244 AND 245; PETITION OF THE BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 19 FOR A CHANGE IN THE EFFECTIVE MINIMUM PRICES FOR RAIL SHIPMENTS INTO MARKET AREAS 204-206 AND 58, IN SIZE GROUPS 9, 10, 15, 16 AND 17

#### NOTICE OF AND ORDER FOR HEARING AND ORDER OF CONSOLIDATION OF DOCKETS FOR PURPOSE OF HEARING

Petitions, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It appearing that the taking of evidence in the above-entitled matters may be expedited by means of a consolidated hearing;

It is ordered, That the above-entitled matters be consolidated for purpose of hearing and for any other purpose as may be deemed desirable by the Director;

It is further ordered, That a hearing in the above-entitled matters under the applicable provisions of said Act and the rules of the Division be held on January 13, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 7, 1941.



All persons are hereby notified that the hearing in the above-entitled matters and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matters concerned herewith are as follows: Docket No. A-377, for changes in the effective minimum prices for rail mines located in subdistricts Nos. 2, 3 and 5 of District No. 19 for coal in Size Group No. 16 when shipped to certain of the following Market Areas: 234, 237-241 and 247-254; Docket No. A-378, for modification of the effective minimum prices for coals produced in Subdistricts Nos. 1 and 2 of District No. 19 and the Nugget Coal Company in Subdistrict No. 3 of District No. 19 in Size Groups Nos. 15, 16 and 17 for consumption at Lyman or Gering, Nebraska, or Wheatland, Wyoming; Docket No. A-379, for modification of effective minimum prices of coals produced in District No. 19 for shipment into Market Areas 217, 244 and 245 or, in the alternative for the modification of effective minimum prices for coals produced in District No. 16 for shipment to the aforesaid market areas; and Docket No. A-380, for modification of the effective minimum prices for Subdistrict No. 3 of District No. 19 for rail shipments into Market Areas 204-206 and 58 in Size Groups Nos. 9, 10, 15, 16 and 17 by increasing such prices or, in the alternative by reducing the prices applicable to all subdistricts of District No. 19 other than Subdistrict No. 3 for rail shipments into said market areas in corresponding size groups, such increases or decreases not to exceed in any case the amount of 25 cents per net ton.

Dated: Dec. 13, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5666; Filed, December 16, 1940;  
2:12 p. m.]

[Docket No. A-383]

PETITION OF DISTRICT BOARD 11 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF THE CHINOOK MINE OF AYRSHIRE PATOKA COLLIERIES CORPORATION, NOT HERETOFORE CLASSIFIED AND PRICED, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER FOR POSTPONEMENT AND CONSOLIDATION

The original petitioner in Docket A-383 and intervener Ayrshire-Patoka Collieries Corporation having filed a "Joint Motion for Continuance" praying that the matter in that docket heretofore set for hearing on December 11, 1940 be continued until January 29, 1941, and there having been no opposition thereto; and

It appearing that the issues here involved concern heretofore unpriced and unclassified coals produced in District 11, as do the matters in Dockets Nos. A-36-Part II, A-147, A-44, A-115, A-259, A-436 and A-440;

It is ordered, That the hearing in Docket No. A-383 be continued from December 11, 1940 to January 29, 1941, at 10 a. m. at Washington, D. C.; that the matters in Dockets Nos. A-36-Part II, A-147, A-44, A-115, A-259, A-436, A-440 and A-383 be consolidated for hearing; and that the hearing be held before the office of the Division heretofore designated to preside at the hearing in Docket Nos. A-36-Part II, A-147, A-44, A-115 and A-259, or before any other officer or officers hereafter duly designated to preside at the hearing at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section, in room 502, will advise as to the room in which such hearing will be held.

Dated: December 13, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5669; Filed, December 16, 1940;  
2:14 p. m.]

[Docket Nos. A-436, A-440, A-36, A-147,  
A-44, A-115, A-259]

PETITION OF DISTRICT BOARD 11 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED; PETITION OF DISTRICT BOARD 11 FOR REVISION OF MINIMUM PRICES FOR COALS OF MINE INDEX 1055, HICKS & RELKER, INCORPORATED; PETITION OF DISTRICT BOARD 11 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED; PETITION OF DISTRICT BOARD 11 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED; PETITION OF DISTRICT BOARD 11 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE ENOS COAL MINING COMPANY'S SEVEN STAR MINE; PETITION OF DISTRICT BOARD 11 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS FOR WASHED COAL, SIZE GROUPS 17 TO 25, FOR MINE INDEX No. 47; PETITION OF DISTRICT BOARD 11 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT No. 11 NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND CONSOLIDATION AND ORDER GRANTING TEMPORARY RELIEF

Petitions, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party in Docket Nos. A-436 and A-440;

and a hearing having been set in the matters in Docket Nos. A-36-Part II, A-147, A-44, A-115 and A-259 for January 29, 1941;

It is ordered, That the matters in Docket Nos. A-436 and A-440 be consolidated for hearing with the matters in Docket Nos. A-36-Part II, A-147, A-44, A-115 and A-259 and that the hearing in the above-entitled matters under the applicable provisions of said Act and the rules of the Division be held on January 29, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That W. A. Shipman or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matters. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 23, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petitions, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of these petitions.

The matter concerned herewith in Docket A-436 is in regard to the establishment of effective minimum prices for the coals of certain mines, herein-after referred to, located in District 11.



for which coals price classifications and minimum prices have not heretofore been established. The requests made in the petition for the establishment of minimum prices for Mine Index 823, Ball & Starrett, Clay County, and Mine Index 942, Jones, Joel, Martin County, are not considered in this Order because these producers are successors to Ball, James, and Jones, Miles R., respectively, and the prices applicable under the former producers are still applicable.

The matter concerned herewith in Docket A-440 is in regard to the revision of effective minimum prices for the coals produced at Mine Index 1055, Hicks & Relker, Incorporated, established in an Order of the Director granting temporary relief in Docket No. A-259.

*It is further ordered*, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: commencing forthwith, the coals referred to in the schedule hereto annexed,<sup>1</sup> marked "Temporary Schedule," and made part hereof, shall be subject to minimum prices as provided in said Temporary Schedule.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to Section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 13, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5671; Filed, December 16, 1940;  
2:14 p. m.]

[Docket No. A-407]

PETITION OF DISTRICT BOARD NO. 10 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING, ORDER OF CONSOLIDATION AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, and a request having been made by petitioner that the above-entitled matter be consolidated for hearing with the matters in Docket Nos. A-370, A-248, A-332, A-194, A-209-220, A-292-295, A-311 and A-344 which have been set for hearing in Springfield, Illinois, on December 20, 1940;

*It is ordered*, That the matter in Docket No. A-407 be consolidated for hearing with the matters in Docket Nos. A-370,

<sup>1</sup>Not filed as a part of the original document.

A-248, A-332, A-194, A-209-220, A-292-295, A-311 and A-344 and that the hearing under the applicable provisions of said Act and rules of the Division be held on December 20, 1940, at 10 o'clock in the forenoon of that day at a hearing room of the Bituminous Coal Division, Abraham Lincoln Hotel, Springfield, Illinois.

*It is further ordered*, That Thurlow G. Lewis or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 17, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to, located in District No. 10, for which coals price classifications and minimum prices have not heretofore been established.

*It is further ordered*, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, the coals referred to in the schedule hereto annexed,<sup>1</sup> marked "Temporary Supplement" and made part

hereof, shall be subject to minimum prices as provided therein.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 18, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5668; Filed, December 16, 1940;  
2:13 p. m.]

[Docket Nos. A-457, A-458]

PETITION OF AUGUSTINA COLONI FOR REVISION OF MINIMUM PRICES ESTABLISHED FOR MINE INDEX 40, DISTRICT 10; PETITION OF THE HELM COAL COMPANY FOR REVISION OF THE MINIMUM PRICES ESTABLISHED FOR MINE INDEX 1192, DISTRICT 10

NOTICE OF AND ORDER FOR HEARING AND ORDER FOR CONSOLIDATION

Petitions, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named parties, and a hearing in the matters in Docket Nos. A-370, A-248, A-332, A-194, A-209-220, A-292-295, A-311, A-344, and A-407, having been set for December 20, 1940, in Springfield, Illinois;

*It is ordered*, That the matters in Docket Nos. A-457 and A-458 be consolidated for hearing with the matters in Docket Nos. A-370, A-248, A-332, A-194, A-209-220, A-292-295, A-311, A-344, and A-407 and that a hearing in these matters under the applicable provisions of said Act and the rules of the Division be held on December 20, 1940, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, Abraham Lincoln Hotel, Springfield, Illinois.

*It is further ordered*, That Thurlow G. Lewis or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matters. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or



entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 15, 1940.

All persons are hereby notified that the hearing in the above-entitled matters and any orders entered therein, may concern, in addition to the matters specifically alleged in the petitions, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith in Docket No. A-457 is in regard to the petition of Augustina Coloni for revision of the minimum prices established at Mine Index 40, District 10, for both truck and rail shipment to all market areas pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

The matter concerned herewith in Docket No. A-458 is in regard to the petition of The Helm Coal Company for revision of the minimum prices established for Mine Index 1192, District 10, for truck shipment to all market areas.

Dated: December 13, 1940.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 40-5665; Filed, December 16, 1940;  
2:12 p. m.]

[Docket No. A-43]

PETITION OF DISTRICT BOARD 7 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

MEMORANDUM OPINION AND ORDER GRANTING TEMPORARY RELIEF

The intervening petition filed in this matter by W. T. Williams (Jean Pocahontas Coal Company) seeks a change in the classification of its coals in Size Groups 6 and 7 from "D" and "C" to "E" and "D", respectively, and prays that a temporary order be issued granting the relief requested pending final disposition of this matter.

A final hearing was held in the above-entitled matter from November 13 to November 18, 1940, pursuant to the Rules and Regulations Governing Practice and Procedure in 4 II (d) Proceedings, at which all interested parties were afforded an opportunity to appear, present evidence, and otherwise be heard.

No. 245—3

No opposition was shown by any party to the granting of the temporary relief as hereinafter provided.

The Director has carefully considered the original petition, the petition of intervention and the record of the hearing.

It appears that the intervener has made an adequate showing of actual or impending injury, in the event that temporary relief, as hereinafter provided, is not granted, and that the granting of temporary relief, as hereinafter provided, will not unduly prejudice other interested persons in advance of a final disposition of the matter.

Now, therefore, it is ordered, That pending final disposition of the above-entitled matter, the Schedule of Effective Minimum Prices for District No. 7 for all shipments except truck be and the same hereby is modified so that the intervener's coals in Size Groups 6 and 7 are classified "E" and "D" respectively.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 14, 1940.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 40-5662; Filed, December 16, 1940;  
2:11 p. m.]

[Docket No. A-62]

PETITION OF THE VIRGINIA AND PITTSBURGH COAL AND COKE COMPANY TO REVISE THE EFFECTIVE MINIMUM PRICES FOR THE KINGMONT MINE, MINE INDEX No. 85, DISTRICT 3, IN SIZE GROUPS 1-6, INCLUSIVE

ORDER OF THE DIRECTOR DENYING RELIEF

An original petition pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 having been duly filed on October 2, 1940, by the Virginia and Pittsburgh Coal & Coke Company, a code member producer in District 3 seeking a reclassification of coal produced at petitioner's Kingmont mine (Mine Index No. 85) as "DF" in Size Groups 1-6 in lieu of its present classification of "DE"; and

A hearing having been held before an Examiner of the Bituminous Coal Division at 734 Fifteenth St. N.W., Washington, D. C., on November 6, 1940; and

The parties to this proceeding having waived the filing of a report by the Examiner, and the matter thereupon having been submitted to the Director; and

The Director having made Findings of Fact and Conclusions of Law in this matter, dated December 14, 1940, which are filed herewith:<sup>1</sup>

It is ordered, That the prayer for relief in the original petition filed by the

<sup>1</sup> Not filed as a part of the original document.

Virginia and Pittsburgh Coal & Coke Company be, and it is hereby denied.

Dated: December 14, 1940.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 40-5668; Filed, December 16, 1940;  
2:11 p. m.]

[Docket No. A-130]

PETITION OF THE RETAIL COAL PRODUCERS ASSOCIATION OF GREATER JOHNSTOWN, ET AL., FOR REVISION OF THE EFFECTIVE MINIMUM PRICE SCHEDULE FOR DISTRICT NO. 1 FOR TRUCK SHIPMENTS, FOR SHIPMENTS OF COAL BY TRUCK IN THE GREATER JOHNSTOWN AREA

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named parties;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on February 4, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street, N.W., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That William A. Cuff or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to Section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 30, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may con-



cern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of intervenors or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to revision of the Effective Minimum Price Schedule for District No. 1 For Truck Shipments of coal into the Greater Johnstown Area, taking into account transportation methods and charges and their effect upon a reasonable opportunity of all code members to compete on a fair basis in the Greater Johnstown Area and thus to preserve as nearly as may be existing fair competitive opportunities of all code members and to reflect as nearly as possible the relative market values of coals delivered into this area.

Dated: December 14, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5677; Filed, December 16, 1940;  
2:17 p. m.]

[Docket No. A-130]

**PETITION OF THE RETAIL COAL PRODUCERS ASSOCIATION OF GREATER JOHNSTOWN, ET AL., FOR REVISION OF EFFECTIVE MINIMUM PRICE SCHEDULE FOR DISTRICT NO. 1 FOR TRUCK SHIPMENTS, FOR SHIPMENTS OF COAL BY TRUCK IN GREATER JOHNSTOWN AREA**

**MEMORANDUM OPINION AND ORDER CONCERNING PRAYER FOR TEMPORARY RELIEF**

The original petition in the above entitled matter was filed jointly by the Retail Coal Producers Association of Greater Johnstown on behalf of eighty-six code members operating mines located in the Greater Johnstown Area, and District No. 2 United Mine Workers of America, Local Union 7564, on behalf of the following code members: William Fallier, William Jeschonek, Frank J. Kenney, Secary Coal Company, William Trimble, and Fred Warshel & Sons. Both organizations are eligible, as representatives of code members and acting under authority conferred by said code members, to file and to appear in support of this petition. Neither organization has shown that it is eligible to represent any parties other than code members, and all references to petitioners herein refer to the code members represented by the two organizations.

Petitioners pray for the issuance by the Director of preliminary or temporary orders revising the Effective Minimum Price Schedule for District No. 1 For Truck Shipments, so as to reflect differences in transportation charges for coals delivered by truck to consumers in the Greater Johnstown Area (that area

bounded as set forth on the map attached hereto and made a part hereof).

On October 25, 1940, an informal conference concerning the prayer for temporary relief in this matter was held by this Division, pursuant to § 301.106 (d) of the Rules and Regulations Governing Practice and Procedure in 4 II (d) Proceedings. The conference was held after notice to the petitioners, District Board 1, the Statistical Bureau for District No. 1, and the Director of the Consumers' Counsel. The petitioners and District Board 1 were instructed to notify all persons likely to be interested in the subject matter of the petition. The following persons were represented at the conference: The petitioners, District Boards 1, 2 and 6, and the Consumers' Counsel Division.

At the conference, representations were made by petitioners to the following effect:

Petitioners have been and are engaged in the production of coal in the Greater Johnstown Area (herein sometimes referred to as "the Area") and for many years have sold and delivered their coal by truck to consumers within the area. The average round trip haul from their mines to their consumers is approximately six miles. Of the coal transported by truck into the Greater Johnstown Area, about 90% is delivered to consumers for household purposes (hereinafter termed household consumers); the rest of the coal is delivered to consumers for use in manufacturing and in business establishments, such as stores, restaurants, etc. (hereinafter termed commercial consumers). In 1937, the truckers transporting coal of petitioners in the Greater Johnstown Area were organized into the United Mine Workers of America as Local Union No. 7564 (herein sometimes referred to as "the Union"), and entered into agreements fixing charges for trucking coals to consumers in the Greater Johnstown Area of 95¢ per net ton for delivery to household consumers and 80¢ per net ton for delivery to commercial consumers. During the last three years, however, coals of similar quality to those of petitioners have been sold in the Greater Johnstown Area, by code member and non-code member truck miners located outside the Area, at very low delivered prices compared to those for petitioners' coals. On March 1, 1940, petitioners, in a considered attempt to meet these lower delivered prices, and after negotiation with the Union truckers, procured a revision of the agreement with the Union providing that the charges for trucking their coals in the Greater Johnstown Area should be reduced 20¢ per net ton. This contract, as revised, remained in effect three or four weeks after which it was abandoned because the Union truckers found they could not haul coal at a figure so far

below their actual cost. Since October 1, 1940, producers located as far as 35 miles away from the Area, especially those owning or controlling trucks, have sold their coals in the Greater Johnstown Area at delivered prices which are so low that they are only 10¢ to 20¢ above the f. o. b. mine prices of petitioners. Such sales have caused petitioners to lose 65% of the business they enjoyed prior to October 1. Statistics compiled by the Union truckers, indicate that the actual cost to the truckers involved in trucking coals in this Area is, on the average, not less than 95¢ for delivery to household consumers and 80¢ per net ton for delivery to commercial consumers.

District Board 1 stated at the conference that it has thoroughly investigated the representations of petitioners and that it supports their prayers for relief.

It is contended by the Consumers' Counsel Division that the request of petitioners concerns the regulation or fixing of transportation charges for shipments of coal by truck. However, it is the opinion of the Director that the matters raised by the petition, as explained at the conference, concern the revision of minimum prices f. o. b. transportation facilities at the mine so as to take into account transportation methods and charges and their effect upon a reasonable opportunity to compete on a fair basis and thus to preserve as nearly as may be existing fair competitive opportunities, and to reflect as nearly as possible the relative market values of coals at points of delivery in common consuming market areas.

At the present time the Effective Minimum Price Schedule for District No. 1, For Truck Shipments, Price Instruction No. 6, provides in part as follows:

"\* \* \* When the transportation, handling, or incidental transaction is not an arm's length transaction (for example, when transportation, dock or other facilities are either owned or controlled by the code member or its affiliates), the charge which shall be added shall be not less than the estimated actual cost of such transactions, arrived at in good faith in a reasonable manner: *Provided, however,* That code members may make application to the Director of the Bituminous Coal Division for permission to add to the f. o. b. mine price a sum less than the estimated actual cost of such transactions, upon a showing that such is necessary to preserve existing fair competitive opportunities."

Thus, effective minimum prices f. o. b. the mine for District No. 1, taking into consideration transportation methods and charges as provided in Price Instruction No. 6, require code members, where transportation costs are not determined in "an arm's length transaction," to reflect in the delivered price for their coals the actual costs of transportation so that competitive opportu-



nities of all producers may be maintained and the effective minimum prices in no manner evaded. It appears from the representations of petitioners (confirmed by District Board 1), however, that variations in transportation charges reflected in the lower delivered prices of producers owning or controlling trucks from outside the Greater Johnstown Area are causing severe damage to petitioners.

This situation may be temporarily alleviated and fair competitive opportunities of petitioners more nearly maintained by requiring all code members transporting coal in or into the Greater Johnstown Area, in trucks owned or controlled by them, to adjust their minimum f. o. b. mine prices, in accordance with variations in their transportation costs and to deliver into the Area at not less than the adjusted minimum f. o. b. mine price plus their actual cost of transportation.

The Director having carefully considered the request for temporary relief and the views expressed in connection therewith at the conference and in the papers filed, and being of the opinion that a reasonable showing of necessity for temporary relief has been made pending final hearing and decision in this matter, and in order to stabilize the coal market in the Greater Johnstown Area, restore petitioners' fair competitive opportunities, and prevent unfair advantage to any producer or any particular group of producers, believes that Price Instruction 6 of the Effective Minimum Price Schedule for District No. 1, For Truck Shipments, should be revised by the addition of the following paragraph:

"Where code members transport coal in their own trucks or in trucks controlled by them for delivery to consumers in the Greater Johnstown Area (that area bounded as set forth on the map attached hereto and made a part hereof), they may, if their actual transportation costs exceed 80¢ per net ton for delivery to such consumers, reduce the effective minimum prices f. o. b. the mine now established for their coals by an amount no greater than the excess of such costs over said 80¢; and they shall, if their actual transportation costs are less than 80¢ per net ton for delivery to such consumers, add to the effective minimum prices f. o. b. the mine now established for their coals an amount not less than the difference between said 80¢ and their actual costs.

"NOTE: This price instruction, as revised, will require all code members transporting coal in trucks owned or controlled by them to consumers in the Greater Johnstown Area to deliver such coal at not less than their adjusted minimum f. o. b. mine price plus their actual transportation cost. The minimum delivered price, based on the adjusted minimum f. o. b. mine price, will be equal to the present minimum f. o. b. mine price of a code mem-

ber plus 80¢. Therefore, the delivered price for code members transporting coal in trucks owned or controlled by them to consumers in the Greater Johnstown Area must be not less than their minimum price established in the Effective Minimum Price Schedule for District No. 1, for Truck Shipments, plus 80¢. Code members shipping coal into that Area in trucks not owned or controlled by them may continue to deliver such coal at the effective minimum price (not adjusted) plus their actual transportation cost."

Under this revision the minimum f. o. b. mine price of a code member, transporting coal in trucks owned or controlled by him, whose effective minimum price f. o. b. mine as now established in the Effective Minimum Price Schedule for District No. 1, for Truck Shipments, is \$2.20 per net ton, will be computed as follows: If his cost of transportation is, for example, 95¢, his minimum f. o. b. mine price will be \$2.20 per net ton less 15¢ (95¢ minus 80¢) or \$2.05 per net ton; if his cost of transportation is, for example, 65¢ per net ton for delivery to consumers, his minimum f. o. b. mine price will be \$2.20 per net ton plus 15¢ (80¢ minus 65¢) or \$2.35 for delivery to consumers. In each instance when his transportation costs are added to his adjusted f. o. b. mine price his minimum delivered price to consumers in the Greater Johnstown Area will be \$3.00 (\$2.05 plus 95¢=\$3.00, and \$2.35 plus 65¢=\$3.00).]

Until further order of the Director, code members delivering coal in trucks owned or controlled by them, to consumers in the Greater Johnstown Area, shall file, within five days after the first and fifteenth of each month, with the Statistical Bureau for District No. 1, a sales slip signed by each purchasing consumer showing thereon at least the following information: (a) The name and location of the producing mine, (b) the name and address of the consumer, (c) the amount and size of coal sold, (d) the price charged for the coal, (e) the name and address of the person transporting the coal and his business connection, if any, with the producer and (f) the amount paid by the producer for the transportation of the coal to the consumer. (Producers, delivering coal as described herein, must comply with this provision, but need not comply with the provisions of Order No. 308.)

Accordingly, it is so ordered.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division and proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 14, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5678; Filed, December 16, 1940;  
2:17 p. m.]

[Docket No. A-288]

PETITION OF THE INDIAN POCAHONTAS COAL COMPANY, A CODE MEMBER IN DISTRICT 7, FOR MODIFICATION OF MINIMUM PRICES IN SIZE GROUPS 6 THROUGH 9, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER DISMISSING PETITION

A hearing in the above-entitled matter having been scheduled for December 9, 1940, at 10 a. m., by duly served notice of and order for hearing dated November 18, 1940; and

The hearing having convened at the appointed time in a room designated by the Chief of the Records Section, Room 502, 734 15th Street Northwest, Washington, D. C.; and

Petitioner having failed to appear at said hearing or request continuance thereof, and a motion having been made for dismissal of the petition for failure of the petitioner to appear, and there being no opposition to such motion,

It is ordered, That the petition in Docket No. A-288 be dismissed.

Dated: December 14, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5660; Filed, December 16, 1940;  
2:10 p. m.]

[Docket No. A-352]

PETITION OF CONSUMERS' COUNSEL DIVISION SEEKING FREE ALONGSIDE PRICES FROM DISTRICTS 8, 9, AND 10 FOR THE OLD QUAKER COMPANY, LAWRENCEBURG, INDIANA

ORDER DENYING TEMPORARY RELIEF

Consumers' Counsel Division has filed an original petition under item 3A of the Special River Price Instructions and Exceptions contained in Price Schedule No. 1 for District Nos. 8, 9 and 10, requesting that the Old Quaker Company of Lawrenceburg, Indiana, be permitted to purchase coal at the effective minimum prices for free alongside delivery.

The petition requested the immediate grant of temporary relief and an opportunity for an informal presentation of views concerning the prayer for temporary relief. Accordingly, an informal conference was held on December 3, 1940, after notice to interested persons, and all persons were given full opportunity to express their views concerning the temporary relief prayed. Representatives of petitioner, the Old Quaker Company, James Walsh & Company, Inc. and District Board No. 8 appeared at the conference. District Board No. 8 opposed the grant of temporary relief.

It was represented at the conference that the Old Quaker Company had in the past purchased river borne coal at a savings over comparable all-rail coal.



However, from the tonnage and price data contained in the petition, as supplemented by oral statements at the conference, it appears that prior to 1940 the Old Quaker Company purchased both river and all-rail coal interchangeably, depending upon which was lower in price at a given time. The record indicates that the rail and river coals were competitive and that, while on an overall basis a savings may have been realized on river coal, frequently rail coal of comparable quality has been available at prices as low as or lower than the prices for river coal. Old Quaker Company appears in nearly all cases to have bought the cheaper coal without respect to the method of transportation. Thus, in 1938, 29 per cent of the total coal purchased was river borne; and in 1939, 54 per cent of the total was river borne. These figures have considerably more significance than those for 1940, during which 81 per cent of the coal purchased to September 1 was river coal, in view of the fact that the special river price instruction here involved first became public early in 1940. However, even in August 1940 a small quantity of rail coal was purchased by Old Quaker for test purposes at prices below the then current prices for river borne coal.

The Director has carefully considered the request for temporary relief, the views expressed and the data submitted in connection therewith at the informal conference and finds that no satisfactory or sufficiently clear showing has been made that the Old Quaker Company is entitled to the relief requested for it. Temporary relief in advance of a full hearing must be denied.

Now, therefore, it is ordered, That the temporary relief requested in the present petition is denied.

Dated: December 14, 1940.

[SEAL]

H. A. GRAY,  
Director.

F. R. Doc. 40-5661; Filed, December 16, 1940;  
2:10 p. m.]

[Docket No. A-416]

PETITION OF HILL-ANDERSON COAL COMPANY, A PRODUCER IN DISTRICT 7, FOR A CHANGE IN CLASSIFICATION OF ITS COAL IN SIZE GROUPS 16, 17, 19-21

MEMORANDUM AND ORDER CONCERNING  
TEMPORARY RELIEF

The Hill-Anderson Coal Company, a producer in District 7, petitioned the Division to reduce the classification of its Willis Branch Mine in Size Groups 16, 17, 19, 20, and 21 from "A" to "D" for shipment to all market areas. Petitioner also requested that temporary relief be granted pending the final disposition of the petition.

An informal conference was held on December 5, 1940, on notice to interested parties. At the conference, petitioner appeared in support of its request for temporary relief and was supported in

its request for temporary relief by District Board 3 and Koppers Coal Company. District Board 8 also appeared and opposed the petition in part.

Petitioner represented that prior to minimum prices it had been operating on a full-time basis, and that since minimum prices its sales and operating time had noticeably declined; that it was unable to market its mine run and slack coal at present minimum prices; that such inability prevented the mine from operating and prevented it from filling orders on hand for lump coal because its tracks were filled to capacity with unsold orders of slack coal; that analyses showed that the classification of its slack coal should be reduced; and that the friability of the coal required a reduction in classification.

District Board 8 opposed the full relief requested. It claimed that petitioner's difficulties in selling mine run coal arose in part out of improper coordination in certain Southern market areas and that to that extent relief in mine run sizes should be granted, but that no further relief should be granted in mine run sizes. For the slack sizes District Board 8 conceded that on the basis of analyses a 5-cent reduction might be proper but opposed the full 15-cent reduction.

The Director is of opinion that the necessity for temporary relief in mine run sizes has not been sufficiently shown, in that petitioner's failure to ship mine run coal may have been caused by unfavorable freight rates into its previous markets and inability to compete with comparable coals which have more favorable freight rates for these particular markets.

However, the Director is of opinion that petitioner is entitled to some temporary relief for the slack sizes, and that the necessity therefor is shown by the recent market history of the coal and by analytical data; that petitioner is not entitled to a reduction to "D", but is only entitled to a reduction to "C", when taking into consideration analyses of petitioner's coals and those of competing coals; that pending final relief a reduction in classification to "C" for the slack sizes should be granted in that petitioner has made an adequate showing of actual or impending injury in the event that temporary relief is not granted; that the granting of this relief would not unduly prejudice other interested parties in this hearing; and that a sufficiently clear showing has been made that petitioner is entitled to the relief requested.

Now, therefore, it is ordered, That the classification of coal from the Willis Branch Mine of the Hill-Anderson Coal Company in Size Groups 18-21 is reduced from "A" to "C" for shipment to all markets pending the final disposition of this petition. In other respects, temporary relief is denied.

Notice is hereby given that applications to stay, terminate, or modify the temporary relief herein granted may be made pursuant to the Rules and Regulations for proceedings under section 4

II (d) of the Bituminous Coal Act of 1937.

Dated: December 14, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5664; Filed, December 16, 1940;  
2:11 p. m.]

[Docket No. 1501-FD]

APPLICATION OF INDIANA FARM BUREAU COOPERATIVE ASSOCIATION, INC., TO BE DESIGNATED AS A REGISTERED DISTRIBUTOR

NOTICE OF AND ORDER FOR HEARING

An application, pursuant to § 304.11 of the Rules and Regulations for Registration of Distributors, containing an agreement inserted by applicant, supplementing the "Agreement by Registered Distributor," having been filed with the Bituminous Coal Division by the above-named party;

It is ordered, That a hearing on such matter be held on January 7, 1941, at 10 o'clock in the forenoon of that day at a hearing room of the Bituminous Coal Division, 734 15th Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Thuriow G. Lewis or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to such applicant and to any other person who may have an interest in such proceeding. Any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Bituminous Coal Division on or before January 6, 1941.

The matter concerned herewith is in regard to the amended application of the Indiana Farm Bureau Cooperative Association, Inc., Indianapolis, Indiana, a cooperative organization, containing an agreement inserted by applicant supplementing the "Agreement by Registered Distributor", wherein the applicant further agrees "not to rebate, grant dividends or discounts, or in any other manner distribute to member stockholders or to any other customers of applicant any



part of the discounts or price allowances that it may receive from Code members in the purchase and resale of bituminous coal as a registered distributor".

Dated: December 14, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5667; Filed, December 16, 1940;  
2:13 p. m.]

#### Bureau of Reclamation.

##### UMATILLA PROJECT, OREGON

##### ADVERTISEMENT OF LANDS FOR LEASE

DECEMBER 5, 1940.

1. Sealed proposals will be received at the office of the Bureau of Reclamation, Washington, D. C., until 2 o'clock, P. M., January 3, 1941, for the lease for agricultural purposes of the land described below:

T. 4 N., R. 28 E. W. M., Oregon, Sec. 3. NE $\frac{1}{4}$ NW $\frac{1}{4}$  (lots 8 and 9) 46.24 acres.

2. The land will be leased for agricultural purposes for a one-year period ending December 31, 1941, the lessee having an option to renew the lease from year to year, but not beyond December 31, 1945, providing the United States does not, by written notice, 90 days prior to the expiration of any annual period, notify the lessee that the lease cannot be renewed.

3. The bidder shall state in the proposal the total annual rental price he proposes to pay. Please use attached proposal blank.<sup>1</sup>

4. Bids must be accompanied by a payment in full for the calendar year 1941. Funds so remitted by unsuccessful bidders will be returned on making of award. Subsequent payments for the purpose of exercising the yearly option renewals must be received in the Washington Office of the Bureau of Reclamation 30 days in advance of the termination of the lease and must be accompanied by a notice to the effect that the lessee desires to exercise such option. In case the necessary payment, accompanied by the notice of the lessee of his desire to exercise the option, is not made on or before the due date, as herein set forth, the lease and the right of occupancy of the lessee terminate at the expiration of the period for which rental has theretofore been paid, without further notice or action. All remittances should be in the form of certified check, bank draft, or money order, drawn in favor of the "Treasurer of the United States."

5. If water for irrigation is desired for any of these lands, it may be secured, if available, by arrangement with the Hermiston Irrigation District, at the prevailing charge for other project lands.

6. Those desiring to bid should first consult a copy of lease form 7-523-A-G, on file at the office of the Hermiston Irrigation District, Hermiston, Oregon, which lease must be promptly executed by suc-

cessful bidders before possession of land is given, and which describes various rights reserved by the United States and other details not herein enumerated, to which the lessee must agree.

7. Envelopes containing bids must be sealed, marked and addressed as follows:

Bid for Lease of Land, Umatilla Project, Oregon, to be opened 2 p. m., Eastern Standard Time, January 3, 1941.

BUREAU OF RECLAMATION  
WASHINGTON, D. C.

H. W. BASHORE,  
Assistant Commissioner.

[F. R. Doc. 40-5682; Filed, December 17, 1940;  
10:00 a. m.]

#### DEPARTMENT OF AGRICULTURE.

##### Farm Security Administration.

##### CANCELLING THE DESIGNATION OF LOCALITIES FOR THE MAKING OF LOANS PURSUANT TO TITLE I OF THE BANKHEAD-JONES FARM TENANT ACT IN THE COUNTY OF SUSSEX, STATE OF DELAWARE

In accordance with the rules and regulations promulgated by the Secretary of Agriculture on July 23, 1940 (5 F.R. 2668), the designation of localities for the making of loans under Title I of the Bankhead-Jones Farm Tenant Act in Sussex County, Delaware, approved October 25, 1940 (5 F.R. 4306), is hereby canceled. No loan shall be made in said county for the purchase of a farm of greater value than the average farm unit of thirty acres and more for that county, in accordance with the determination of that value approved August 24, 1940 (5 F.R. 3492).

Approved December 7, 1940.

[SEAL] C. B. BALDWIN,  
Administrator.

[F. R. Doc. 40-5700; Filed December 17, 1940;  
11:44 a. m.]

##### Rural Electrification Administration.

[Administrative Order No. 546]

##### AMENDMENTS OF ALLOCATIONS OF FUNDS FOR LOANS

DECEMBER 10, 1940.

I hereby amend:

(a) Administrative Order No. 506, dated August 15, 1940, by rescinding the allocation of \$4,000 therein made for "Michigan 1026W3 Ingham";

(b) Administrative Order No. 520, dated September 25, 1940, by rescinding the allocation of \$8,000 therein made for "Minnesota 1059W2 Olmsted"; and

(c) Administrative Order No. 476, dated July 1, 1940, by rescinding the allocation of \$3,000 therein made for "Tennessee 1027W1 Carroll Public."

[SEAL] HARRY SLATTERY,  
Administrator.

[F. R. Doc. 40-5679; Filed, December 16, 1940;  
3:05 p. m.]

#### DEPARTMENT OF COMMERCE.

##### Civil Aeronautics Authority.

[Docket No. SA-28]

##### INVESTIGATION OF ACCIDENT INVOLVING AIRCRAFT OF UNITED STATES REGISTRY NC 16015, WHICH OCCURRED NEAR ST. LOUIS, MISSOURI, ON DECEMBER 11, 1940

NOTICE OF HEARING<sup>1</sup>

Notice is hereby given that a public hearing in connection with the above-entitled matter will be held at 9 a. m. (C. S. T.) on December 18, 1940, in Room 605, United States Courthouse and Customs House, 1114 Market Street, St. Louis, Missouri.

December 16, 1940.

S. G. TIPTON,

By direction of the Examiner.

[F. R. Doc. 40-5683; Filed, December 17, 1940;  
10:01 a. m.]

#### SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-199]

##### IN THE MATTER OF ARKANSAS WESTERN GAS COMPANY

##### ORDER GRANTING APPLICATIONS

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of December, A. D. 1940.

Arkansas Western Gas Company, a subsidiary of Southern Union Gas Company, a registered holding company, having filed an application and amendments thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 with respect to the issue and sale of (a) \$800,000 principal amount of First Mortgage Sinking Fund Bonds, 4½% Series, due 1955; and (b) a 4% Promissory Note in the principal amount of \$250,000 payable in installments; and having filed an application and amendments thereto pursuant to section 10 (a) (3) of said Act with respect to the acquisition of the business, franchises and water system of River Valley Gas Company; and

A public hearing on said matter having been held after appropriate notice, the Commission having considered the record in this matter and having made and filed its Findings and Opinion herein;

It is ordered, That the applications, as amended, filed pursuant to section 6 (b) and section 10 (a) (3) of the Act by Arkansas Western Gas Company be, and they hereby are, granted, subject, however, to the terms and conditions prescribed in Rule U-9 and to the further following conditions:

1. That as long as any of its First Mortgage Sinking Fund Bonds, 4½% Series, due 1955, shall be unredeemed

<sup>1</sup> Issued by Civil Aeronautics Board.

<sup>1</sup> Filed as a part of the original document.



and outstanding, or until further order of this Commission, Arkansas Western Gas Company shall set aside during the calendar year 1941, and during each succeeding calendar year, out of income as and for a reserve for retirements an amount equal to not less than  $3\frac{1}{3}\%$  of total net fixed assets, tangible and intangible, as recorded on the books of the company as at December 31, 1940, plus an amount equal to not less than  $3\frac{1}{3}\%$  of all net additions to such fixed assets from and after December 31, 1940;

2. That as long as any of its First Mortgage Sinking Fund Bonds,  $4\frac{1}{2}\%$  Series, due 1955, shall be unredeemed and outstanding, or until further order of this Commission, no dividends shall be declared or paid on the 6% Cumulative Preferred Stock, or on the Common Stock, of Arkansas Western Gas Company, unless in each calendar year beginning with the calendar year 1941 net earnings or unrestricted Earned Surplus in the amount of not less than \$40,000 (or such portion thereof as total net earnings or total accumulated unrestricted Earned Surplus permits) shall be credited to an account entitled "Earned Surplus—Restricted"; that in the event the credit to "Earned Surplus—Restricted" in any one calendar year shall have been less than \$40,000 then the deficiency for such year shall be made up in the next succeeding year or years; that no charges shall be made to such "Earned Surplus—Restricted" account without prior approval of this Commission;

3. That pending further order of this Commission, no underwriter's fees, commission, or other compensation shall be paid in connection with the issuance and sale of the First Mortgage Sinking Fund Bonds,  $4\frac{1}{2}\%$  Series, due 1955, or the 4% Promissory Note; and

4. That when all expenses incurred in connection with the issue and sale of the securities shall be actually paid, Arkansas Western Gas Company shall file with this Commission a detailed statement of such expenses showing the names of persons or entities to whom such payments were made, the amounts of such payments, the accounts charged, and a detailed description of the services rendered for which such payments were made.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Recording Secretary.

[F. R. Doc. 40-5698; Filed, December 17, 1940;  
11:36 a. m.]

[File No. 70-201]

IN THE MATTER OF SOUTHERN NATURAL GAS  
COMPANY, FEDERAL WATER SERVICE COR-  
PORATION

#### ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of December, A. D. 1940.

A declaration and an application, and an amendment thereto, having been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named persons, and notice having been given of the filing thereof by publication in the FEDERAL REGISTER and otherwise as provided by Rule U-8 under said Act; and

Such declaration and application concerning the following:

The proposed issue and sale by Southern Natural Gas Company, a registered holding company of the Utility Operators holding company system, of 484,379 additional shares of its common stock of the par value of \$7.50 per share, said shares to be offered (by means of transferable warrants and in the ratio of  $\frac{7}{10}$  of one share for each share presently held) for subscription pro rata by the present stockholders of Southern, at a price of \$10 per share. Any portion of the additional common stock that may remain unsubscribed at the date of expiration of such warrants may be sold at public or private sale at a price, not less than \$10 per share, to be fixed by the Board of Directors of Southern Natural Gas Company. Federal Water Service Corporation, the parent corporation of Southern Natural Gas Company, seeks approval of the purchase of 253,372 shares of the additional common stock, that being the amount to which it would be entitled as holder of 361,960 of the 691,970 shares of common stock of Southern Natural Gas Company presently outstanding; and

It appearing to the Commission that it is appropriate and in the public interest and the interests of investors and consumers that a hearing be held with respect to said declaration and application and that said declaration shall not become effective or said application be granted except pursuant to further order of the Commission, and that at said hearing there be considered, among other things, the various matters hereinafter set forth;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on December 19, 1940, at 10:00 A. M. at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of issues presented by said application and declaration particular attention will be directed at said hearing to the following matters and questions:

1. Whether the subscription price of \$10 for the common stock which Southern Natural Gas Company proposes to issue is reasonable and proper with respect to the stockholders of said company;

2. Whether the declarant has such need for funds as to justify compelling stockholders to choose between an additional investment in the company or a dilution of their interest therein, in the amounts contemplated.

3. Whether the terms and conditions of the transferable warrants, particularly the provision with respect to the period in which persons may exercise their rights to subscribe, are detrimental to the public interest or the interest of investors.

4. Whether the uses to which the proceeds derived from the proposed issue and sale of said common stock will be devoted are reasonably necessary and appropriate to the economical and efficient development of an integrated public utility system; and

5. Whether the acquisition by Federal Water Service Corporation of 253,372 shares of said common stock at a cost to Federal of \$2,533,720 will serve the public interest by tending towards the economical and efficient development of an integrated public utility system.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Recording Secretary.

[F. R. Doc. 40-5699; Filed, December 17, 1940;  
11:36 a. m.]

[File No. 70-214]

IN THE MATTER OF CONSOLIDATED ELECTRIC  
AND GAS COMPANY SAFETY ENGINEERING  
AND MANAGEMENT COMPANY

#### NOTICE REGARDING FILING OF DECLARATIONS

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1940.

Notice is hereby given that declarations have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named parties; and

Notice is further given that any interested person may, not later than December 27, 1940, at 4:30 p. m., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declarations, as filed or as amended, may become effective as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be



addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declarations, which are on file in the office of said Commission, for a statement of the transactions therein proposed which are summarized below:

Consolidated Electric and Gas Company (hereinafter called "Consolidated"), a registered holding company, owns all of the capital stock and two promissory notes, in the total principal amount of \$2,565,936.66, of Safety Engineering and Management Company (hereinafter called "Safety"), a subsidiary investment company. All of the securities of Safety owned by Consolidated are pledged under an Indenture dated August 1, 1932, securing the Collateral Trust Bonds of Consolidated. Safety owns \$3,996,500 principal amount of the Collateral Trust Bonds of Consolidated.

Safety now proposes to sell to Consolidated \$1,778,000 principal amount of the Collateral Trust Bonds of Consolidated at a price equal to 59% of the principal amount thereof (plus accrued interest to the date of sale), and Consolidated proposes to pay for such Bonds by the endorsement of payment of the purchase price on the promissory notes of Safety held by Consolidated. Thereafter, Consolidated proposes to deliver the \$1,778,000 principal amount of Collateral Trust Bonds to the Indenture Trustee for cancellation and retirement.

Safety also proposes to sell to Consolidated at a subsequent date the remaining \$2,218,500 principal amount of the Collateral Trust Bonds of Consolidated at approximately the market value thereof existing on the date of sale (plus accrued interest to said date of sale), and Consolidated proposes to pay for such Bonds by

the endorsement of payment of the purchase price on the promissory notes of Safety then held by Consolidated. The \$2,218,500 principal amount of Collateral Trust Bonds of Consolidated are now pledged as security for the Federated Utilities, Inc. First Lien Collateral Trust Gold Bonds (which have been assumed by Consolidated) under an Indenture of Pledge, dated March 31, 1937, between Safety and the Harris Trust and Savings Bank, Indenture Trustee. After the \$2,218,500 principal amount of Collateral Trust Bonds have been acquired by Consolidated, such Bonds will continue to be subject to the Indenture of Pledge with the Harris Trust and Savings Bank.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

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11:36 a. m.]



